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PENNSYLVANIA BULLETIN

Volume 39
Saturday, September 12, 2009 • Harrisburg, PA
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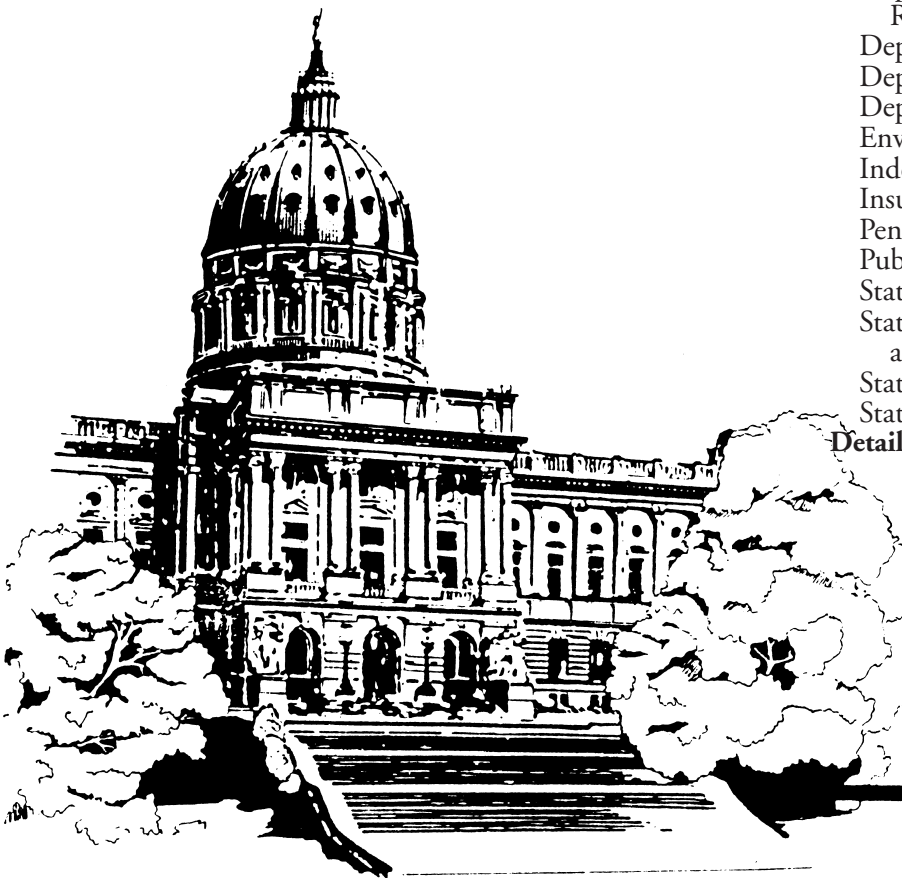
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and Salespersons
State Employees' Retirement System
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 418, September 2009

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2009.

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THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that on August 27, 2009, the Supreme Court of Pennsylvania ordered that Michael David Sinko be placed on Temporary Suspension from the practice of law under Rule 214, Pa.R.D.E., effective September 26, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 09-1675. Filed for public inspection September 11, 2009, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that John P. Halvonik having been excluded from practice before the United States Patent and Trademark Office for a period of 5 years by Memorandum and Order and Notice of Exclusion of the under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office dated January 21, 2009; the Supreme Court of Pennsylvania issued an Order dated August 27, 2009, suspending John P. Halvonik from the practice of law in this Commonwealth for a period of 5 years, effective September 26, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 09-1676. Filed for public inspection September 11, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 4—ADMINISTRATION

STATE EMPLOYEES' RETIREMENT SYSTEM

[4 PA. CODE CH. 250]

Special Rules of Administrative Practice and Procedure

The State Employees' Retirement Board (Board) proposes to amend Chapter 250 (relating to special rules of administrative practice and procedures) by amending § 250.1 (relating to applicability of general rules) and adding § 250.2 (relating to appeal period from decisions of administrative staff).

A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA 17108-1147, (717) 787-9657 or Paul M. Stahlnecker, Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 783-7317.

C. *Statutory Authority*

This final-form rulemaking is being made under the authority of 71 Pa.C.S. § 5902(h) (relating to administrative duties of the board).

D. *Summary of the Final-Form Rulemaking*

This final-form rulemaking formalizes current Board practice of allowing for a 30-day appeal period for parties aggrieved by an administrative decision of the State Employees' Retirement System (SERS).

E. *Summary of Comments and Responses*

No comments were received from the Independent Regulatory Review Commission (IRRC), the House State Government Committee and the Senate Finance Committee (Committees) or the public.

F. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the rulemaking.

Benefits

The final-form rulemaking is intended to alleviate any confusion and prevent possible disputes with regard to the granting of the additional 20-day period in which an aggrieved party may file an appeal.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this final-form rulemaking.

Compliance Costs

The final-form rulemaking is not expected to impose any additional compliance costs on State employees.

G. *Sunset Review*

Sunset review is not applicable.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 24, 2007, the Board submitted a copy of the proposed rulemaking, published at 37 Pa.B.

4209 (August 4, 2007), IRRC and the Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board is required to provide IRRC and the Committees with copies of the comments received during the public comment period, as well as other documents requested. The Board received no comments with regard to this final-form rulemaking.

Under section 5.1(j.2) of the Regulatory Review Act, on July 22, 2009, this final-form rulemaking was deemed approved by the Committees. Under section 5.1(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective July 22, 2009.

I. *Findings*

The Board finds that:

(1) Public notice of the intention to amend these regulations was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking; and adoption of regulations).

(2) The final-form rulemaking is necessary and appropriate for the administration of the Retirement Code.

J. *Order*

The Board, acting under 71 Pa.C.S. § 5902(h), orders that:

(a) The regulations of the Board, 4 Pa. Code Chapter 250, are amended by amending § 250.1 and adding § 250.2 to read as set forth at 37 Pa.B. 4209.

(b) The amendments shall be submitted to the Office of Attorney General for approval as to legality as required by law.

(c) The Secretary of the Board shall certify this order and 37 Pa.B. 4209 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

LEONARD KNEPP,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 4208 (August 4, 2007).)

Fiscal Note: Fiscal Note 31-6 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 09-1677. Filed for public inspection September 11, 2009, 9:00 a.m.]

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 1101, 1103, 1105, 1107 AND 1113]

Supplemental Nutrition Program for Women, Infants and Children

The Department of Health (Department), Bureau of Family Health, Division of WIC (WIC Program), amends

28 Pa. Code Chapters 1101, 1103, 1105, 1107 and 1113. The chapters govern the authorization and management of stores participating in the Special Supplemental Nutrition for Women, Infants and Children (WIC) Program.

Without some of these revisions, the United States Department of Agriculture, Food Nutrition Services (USDA-FNS) may withhold funding to the WIC Program. If Federal funding is interrupted, the Department would likely need to suspend or eliminate the WIC Program, having a significant negative impact on the health and welfare of WIC eligible women, infants and children. Loss or even suspension of Federal funding for the WIC Program would render it inoperable, as 100% of the WIC Program's funds are Federal funds; or would place a difficult, if not impossible, financial burden on the Commonwealth, should the Commonwealth continue to operate the WIC Program with state funds. The WIC Program serves approximately 260,000 families and individuals each month, and is a high profile benefits program not only in this Commonwealth, but also around the country. An interruption in the funding of the WIC Program would affect the receipt of necessary food benefits for the participants of the WIC Program, the retail grocery business and the employment of personnel at 24 local WIC agencies.

Other revisions to the WIC Program State regulations include the addition of language which allows the WIC Program to more smoothly incorporate technological advancements. These advancements ensure that the Pennsylvania WIC Program remains at the forefront of quality and efficiency and continues to provide the best experience for WIC participants and WIC authorized stores.

The Department published notice of the proposed rule-making at 38 Pa.B. 4767 (August 30, 2008), and provided a 30-day public comment period. There were no comments submitted from the public.

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed regulations on August 15, 2008, to the Independent Regulatory Review Commission (IRRC) and to the House Health and Human Services Committee and the Senate Public Health and Welfare Committee (Committees). In addition to submitting the proposed regulations, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." There were no comments submitted by the Committees. IRRC submitted comments to the Department on October 29, 2008. The comments and the Department's responses to them appear in the summary of the final-form rulemaking.

A. Comments and Revisions

Section 1101.2. Definitions.

IRRC suggested the Department explain the phrase "Federally-mandated cost containment measures." The phrase "Federally-mandated cost containment measures" refers to the requirement that states establish peer group pricing and competitive pricing as found in 7 CFR 246.12(g)(4)(ii) (relating to food delivery systems).

IRRC also noted the proposed definition for "peer group" referred to "criteria selected by the Department," and the proposed definition for "store peer group system"

referred to "common characteristics" or "criteria that affect food prices." IRRC suggested the Department provide examples of such criteria for both phrases. In response to IRRC's request, the Department supplemented the phrase "criteria selected by the Department" in the definition of "peer group" with, "including the size of a store sales floor, number of cash registers in the store, number of stores owned and county where the store is located." The Department also supplemented the phrase "common characteristics" and "criteria that affect food prices" in the definition of "store peer group system" with "the size of a store sales floor, number of cash registers in the store, number of stores owned, and a measure of geography, such as metropolitan or other statistical areas that form distinct labor and product markets."

Section 1103.1. Authorization and reauthorization process and requirements.

IRRC noted that proposed subsections (b)(5) and (c)(2) refer to "any information necessary" for the Department to determine whether the store qualifies as an above-50-percent-store. IRRC suggested the Department provide examples of the relevant "information" needed. In response to IRRC's request, the Department added the following language "this information may include official State and Federal Income Tax Filings, official State Sales Tax records, inventory purchase records, sales records and/or a self-declaration from the applicant."

IRRC also noted that proposed subsection (d)(7) states that if the Department does not receive from the store the information requested to determine if the store qualifies as an above-50-percent-store within 20-calendar days, the Department will terminate a store's authorization or reauthorization. IRRC inquired about the appropriateness of this time frame. The 20-day time period was selected to remain consistent with current WIC Program policy to give 20 days for payment or receipt of items (see the explanation of § 1107.1a(d)(13)) (relating to disqualifications). If those items are not received within 20 days, a "Late Due Notice" is sent to the store giving them an additional 10 days. If the items are not received after those additional 10 days, a disqualification letter is sent to the store which gives the store an additional 30 days to submit the items. If the items are still not received, the store is disqualified. This disqualification can be appealed by a store.

Section 1103.4. Selection criteria for authorization and reauthorization.

IRRC noted that under proposed paragraph (15), the Department will provide notice by September 15 of minimum technology requirements for the following year. IRRC asked whether notice by September 15 would allow a store sufficient time to purchase, test and implement the new technology in all circumstances, given the potential magnitude of the technological change. Stores will have ample time to purchase, test and implement the new technology requirement because this paragraph will apply only to new stores applying for initial authorization. Stores authorized prior to the effective date of this paragraph, maintaining an uninterrupted authorized status, will be exempt from the requirements of this paragraph. If a store applies for authorization, it will be required to "meet the minimum technology requirement" which is set by the Department prior to the start of that Federal Fiscal Year.

Section 1103.8. Store peer group system.

IRRC noted proposed subsection (b) stated the Department will create peer groups "based upon at least two criteria selected by the Department. . . ." IRRC further noted this subsection lists a measure of geography as one criterion, but it does not explain the second. IRRC suggested the Department should explain both criteria. In response, the Department has revised the subsection to explain the criteria as "the size of a store sales floor, number of cash registers in the store, number of stores owned, and a measure of geography, such as metropolitan or other statistical areas that form distinct labor and product markets."

Section 1107.1a. Disqualifications.

IRRC inquired about how long a store must be in violation of this section before it will be subject to a 1 year disqualification. IRRC also asked if the store will receive notice of the violation and be given an opportunity to cure it before it being disqualified, what happens after the 1 year period ends, and the procedure by which a store becomes reauthorized.

There are many reasons for disqualification in this section, all of which can be appealed by a store. All State WIC programs are required by Federal regulation at 7 CFR 246.12(j) to monitor WIC authorized stores for compliance with WIC regulations, and stores must follow WIC regulations, even when not under investigation.

Violation of § 1107.1a(d)(4) would be observed during a retail store monitoring review. All WIC programs are required to annually monitor at least 5% of their authorized retail stores through "routine monitoring" per 7 CFR 246.12(j)(2). This is done with a computerized random selection process and WIC representatives who visit the randomly selected stores. Each store is reviewed to determine whether it is maintaining the minimum inventory of WIC items priced at, or below, competitive price levels and if the WIC allowable items are fresh or stale dated. The store personnel are asked a series of questions to ensure they are following the program rules and regulations. If a store passes one monitoring review during a monitoring investigation, the investigation is closed and the store is considered to be in compliance. Following each review, a store is sent written notification of the results of each review, and provided training after failing two monitoring reviews. A store must fail three monitoring reviews during a monitoring investigation before a store will be disqualified. The information about routine reviews and store notification can be found at § 1105.6(d).

Violations as a result of § 1107.1a(d)(6) and (7) could be reported by a WIC customer leading to a store inspected by WIC program staff. One incidence would warrant a store's disqualification.

Violation of § 1107.1a(d)(8) would warrant a 1-year immediate disqualification of the store.

According to 7 CFR 246.12(j)(4), each State WIC program is required to monitor at least 5% of the WIC authorized stores through compliance investigations. Violation of § 1107.1a(d)(9)—(12) would be discovered during a compliance investigation, which is not closed until a store passes two consecutive compliance buys. Following each compliance buy, a store is given written notification of the results of each compliance buy, and required to receive mandatory cashier training if they fail two compliance buys. Under § 1105.6(b)(8) (relating to monitoring of WIC authorized stores), the Department may withhold notification of compliance buy results, and may withhold

providing training or conducting further compliance investigations, when fraudulent activity by the WIC authorized store is indicated during a compliance investigation or by local agency or participant complaint. A store may be disqualified if it fail at least three compliance buys through the course of a compliance investigation. The information about compliance investigations and store notification can be found at § 1105.6(b).

Violation of § 1107.1a(d)(13) occurs when a store fails to reimburse the Department for overpayments, overcharges or other improper charges. Stores are given 20 days to reimburse the Department following written notification. If payment is not received, the store is given an additional 10 days through written notification. If payment is still not received, a store is sent a disqualification letter that gives it an additional 30 days to send payment. If the store still does not provide payment, the store is disqualified.

If there was a violation of § 1107.1a(d)(14) that can be proven, the store would be immediately disqualified for 1 year.

Under 7 CFR 246.12(h)(7)(i), State WIC programs are required to provide annual training to each WIC authorized retail store. This training is meant to keep stores notified of any changes in Federal or State regulations, and ensure stores maintain the knowledge to transact WIC checks properly. A store must attend an annual training session by the end of each Federal Fiscal Year (FY) or the store will be disqualified for noncompliance with WIC regulations. If a store misses its annual training session, it is given an opportunity to attend alternative training sessions before being disqualified.

A store may apply for authorization following a 1-year period of disqualification. If a store is in the program for a period of 3 consecutive years, it would be required to be reauthorized. The information regarding what stores may do after a 1-year disqualification can be found in § 1107.1a(l). The information about reauthorizations can be found in § 1103.1, referring to authorizations and reauthorizations.

Section 1105.1. Training.

The Department did not receive comments on this section.

Section 1105.2. Price adjustment.

The Department did not receive comments on this section.

Section 1105.3. Terms and conditions of participation.

The Department did not receive comments on this section.

Section 1105.5. Changes in availability or location of WIC authorized stores.

The Department did not receive comments on this section.

Section 1105.6. Monitoring of WIC authorized stores.

The Department did not receive comments on this section.

Section 1107.1a. Disqualifications.

The Department did not receive comments on this section.

Section 1107.2. Civil money penalties.

The Department did not receive comments on this section.

Section 1113.1. Right to administrative appeal.

The Department did not receive comments on this section.

B. Fiscal Impact

Fiscal Impact on the Department

The WIC Program is 100% Federally funded. No State dollars are involved in the operation of the WIC Program. The regulatory change to § 1105.3, allowing a WIC check to be used at any authorized store, causes the WIC Program to incur a one-time equipment purchase fee.

Pennsylvania is one of the few states whose regulations provide for store specific WIC checks. The customary practice in states that are nonstore specific is to require their banking contractor to capture the authorized store number from the face of each check as it is processed through the bank. This service would have added approximately \$.02 to the cost of each check processed. Pennsylvania processes approximately 8 million WIC checks annually, which would result in an estimated direct cost increase of approximately \$160,000 annually if this method were implemented. Additional costs to the Department under this method would include the issuance and maintenance of WIC authorization stamps to approximately 1,500 authorized stores. The anticipated initial cost would be \$2,800 and ongoing replacement and new applicant stamp cost of approximately \$300 annually.

Pennsylvania chose an alternate method to this check identification system, which is less costly and less labor intensive. The alternate method uses direct data transfer from each WIC authorized store to the WIC Program. This is accomplished with the use of electronic cash registers, Magnetic Ink Character Recognition (mini-MICR) readers, a secure web site, and touchtone telephones. Each WIC authorized store is required to transfer check redemption data to the WIC Program, prior to depositing its redeemed WIC checks. The data is then combined electronically with each WIC check number, before the bank will redeem the check. This process will incur an initial cost of \$93,823 for the cost of the mini-MICR readers that will be supplied to stores that have the appropriate communications equipment. There will be no additional banking fees incurred. Since the Department was required by Federal law to implement these changes no later than July 1, 2006, before regulatory revisions could be completed, some of these costs have already been absorbed by the WIC Program.

Although costs to the Department initially increased, the long-term costs are greatly reduced. Additionally, savings in efficiencies at the local agency level will mitigate these initial cost increases. WIC checks previously identified the authorized store at which they were to be redeemed. However, when the store did not have the products the participant wanted or ceased operating, participants had to go back to the clinics to have the WIC checks reissued to another store. This created additional workload at the clinics, which is eased with these changes. Unfortunately, the actual cost of this additional workload cannot be quantified for accurate comparison to expected increases in costs.

Other aspects of changes in these regulations may cause some additional costs to the Department. The initial and annual determination of whether a store is, or is expected to, derive more than 50% of its annual revenue from the sale of food items from WIC sales and the establishment and maintenance of the store peer

group system will require additional staff time. However, it is anticipated this task can be absorbed by the existing staff.

In addition, the list of authorized infant formula manufacturers, wholesalers, distributors or retailers required to be provided to WIC authorized stores will include approximately 11,000—12,000 entities. The Department has worked with USDA and determined that such a list can be provided or made available to WIC authorized stores in an electronic format, thereby mitigating the cost of production of an 11,000—12,000 entry list to approximately 1,400 WIC authorized stores annually.

Any cost increases as a result of these changes mandated by Federal law will be covered by the Federal funding provided to the WIC Program. Additional costs saving may also be realized from the cost containment measures in these regulations as required by Federal law.

Fiscal Impact on the Regulated Community

The Department does not anticipate any increased costs for the regulated community as a result of these regulations.

C. Paperwork Requirements

Paperwork Requirements for the Department

The Department's paperwork will increase in obtaining, preparing and updating the list of authorized infant formula manufacturers, wholesalers, distributors and retailers. The Department's paperwork requirements will also increase in the evaluation and documentation of the review of each store's actual or anticipated WIC sales to determine if any store is deriving more than 50% of its annual revenue from the sale of food items from WIC sales and in establishing and maintaining the store peer group system and the applicable competitive and maximum allowable prices.

Paperwork Requirements for the Regulated Community

The amendments do not increase paperwork for WIC Program participants. The WIC authorized stores are required to submit electronic data regarding the redemption of WIC checks prior to deposit. Although this task will increase the time necessary for WIC authorized stores to prepare WIC checks for deposit, it will be somewhat offset by the fact that cashiers will no longer need to verify that the WIC check being presented for payment is payable to the store.

D. Statutory Authority

The WIC Program was authorized through an amendment to the Federal Child Nutrition Act of 1966 (42 U.S.C.A. § 1786). Congress authorized the USDA-FNS to contract with and make funds available to states to administer the WIC Program. In this Commonwealth, the WIC Program receives 100% of its funding from the USDA-FNS. Recent amendments to the Federal WIC statutes and appropriations necessitate these regulatory revisions. See Child Nutrition and WIC Reauthorization Act, Pub. L. No. 108-265, § 203(e)(10), 118 Stat. 729 at 776—779 (2004) (codified at 42 U.S.C. § 1786(h)(11)); Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, 118 Stat. 2809, 2833 and 2850 § 780; and, Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, Pub. L. No. 109-97, 119 Stat. 2120, 2144 and 2163 § 787.

There are no state statutes governing the operation or administration of the WIC Program. The Women's, Infants' and Children's Nutrition Improvement Act (62 P. S. §§ 2951—2955) authorizes additional state funding for

the expansion of the WIC Program. The Commonwealth, however, has not provided funding for the expansion of the program since State FY 1996.

The State regulations governing the WIC Program were published at 29 Pa.B. 3841 (July 24, 1999), following the decision of the Commonwealth Court in *Giant Food Stores, Inc. v. Commonwealth of Pennsylvania, Department of Health*, 713 A.2d 177 (Pa. Cmwlth. 1998). The Commonwealth Court held that the Department was required to promulgate regulations governing the selection and management of grocery stores to participate in the WIC Program. The State regulations added 28 Pa. Code Part VIII (relating to supplemental nutrition program for women, infants and children (WIC program)). The regulations also deleted 28 Pa. Code §§ 8.41—8.74, the Department's then existing regulations pertaining to WIC Program administrative appeals.

The final-form regulations are published under section 2102(g) of The Administrative Code of 1929 (code) (71 P.S. § 532(g)), which provides the Department general power to promulgate regulations to carry out its duties. Section 2102(a) of the code gives the Department the authority and duty to protect the health of the people of this Commonwealth. See 71 P.S. § 532(a).

E. Effective Date/Sunshine Date

The regulations will become effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking. The regulations will be monitored continuously and will be updated as required by changes in Federal laws governing the WIC Program. Therefore, no sunset date has been set.

F. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §§ 745.1—745.15), the Department submitted a copy of a notice of proposed rulemaking, published at 38 Pa.B. 4767, to IRRC and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee (Committee) on August 15, 2008. The Department received no comments during the formal comment period. In compliance with the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all other required documentation.

In compliance with section 5.1(a) of the Regulatory Review Act, the Department submitted a copy of the final-form rulemaking to IRRC and the Committees on June 4, 2009. In addition, the Department provided IRRC and the Committees with information pertaining to commentators and a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

In preparing this final-form rulemaking the Department has considered all comments received from IRRC, the Committees and the public.

This final-form rulemaking was deemed approved by the Committees on July 22, 2009. IRRC met on July 23, 2009, and approved the regulation in accordance with section 5.1(e) of the Regulatory Review Act. The final-form rulemaking was delivered to the Office of Attorney General on August 6, 2009. The Office of Attorney General approved the final-form rulemaking on September 1, 2009.

G. Contact Person

Questions regarding these regulations may be submitted to Greg Landis, Director, WIC Program, 2150 Herr Street, 1st Floor, Harrisburg, PA 17103, (717) 783-1289. Persons with a disability may submit questions in alternative format such as audio tape, Braille or by using V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Greg Landis at the previous address or telephone numbers so that necessary arrangements may be made.

H. Findings

The Department finds that:

(1) Public notice of intention to adopt the regulations adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P.S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and no public comments were received.

(3) The adoption of regulations in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

I. Order

The Department, acting under the authorizing statute, orders that:

(1) The regulations of the Department, at 28 Pa. Code Chapters 1101, 1103, 1105, 1107 and 1113 are amended by amending §§ 1101.2, 1103.1, 1103.4, 1103.8, 1105.1—1105.3, 1105.5, 1105.6, 1107a.1, 1107.2 and 1113.1 as set forth in Annex A.

(2) The Secretary of Health shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(3) The Secretary of Health shall submit this Order, Annex A and a Regulatory Analysis Form to IRRC and the Committees for their review and action as required by law.

(4) The Secretary of Health shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(5) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

(Editor's Notice: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4832 (August 8, 2009).

Fiscal Note: Fiscal Note 10-180 remains valid for the final adoption of the subject regulation.

EVERETTE JAMES,
Secretary

Annex A

TITLE 28. HEALTH AND SAFETY

PART VIII. SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC PROGRAM)

CHAPTER 1101. GENERAL PROVISIONS

§ 1101.2. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Above-50-percent-store—A store that derives more than 50% of its annual food sales revenue from WIC checks, and a new store applicant expected to meet this criterion under guidelines approved by USDA-FNS.

* * * * *

Competitive price—The price established by the Department, at or below which a store shall maintain the required minimum inventory.

* * * * *

Food items—Items sold for human consumption that are eligible for purchase under the Food Stamp Program.

* * * * *

Food sales—

(i) Sales of all Food Stamp Program eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; fruits and vegetables.

(ii) Food items such as condiments and spices, coffee, tea, cocoa and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified in this definition.

(iii) The term does not include the sale of any item that cannot be purchased with food stamp benefits, such as hot foods or food that will be eaten in the store.

Food Stamp Program—The government benefits program operated under the authority of the Food Stamp Act of 1964 (7 U.S.C. Chapter 51) and 55 Pa. Code Part II, Subpart L (relating to Food Stamp Program), and administered by the USDA-FNS and the Department of Public Welfare.

Full line grocery store—A store that:

(1) Offers for sale, in addition to WIC authorized foods, food items from each of the following four food categories on a continuous basis:

- (i) Meat, poultry or fish.
- (ii) Bread or cereal.
- (iii) Vegetables or fruits.
- (iv) Dairy.

(2) Has available for sale at all times of operation and displays in a public area of the store, a minimum of three different varieties of food items in each of the four above listed food categories.

* * * * *

Overpayment—Payment to a WIC authorized store of a WIC check redeemed by the store in an amount in excess of the amount to which the store was entitled based upon the maximum allowable price applicable to the store's peer group for each allowable food authorized for purchase on the WIC check.

* * * * *

Peer group—The classification of an authorized store under the store peer group system, as determined by the criteria selected by the Department, including size of a store sales floor, number of cash registers in the store, number of stores owned, and county where the store is located.

* * * * *

Store peer group system—A classification of authorized stores into groups based on common characteristics or criteria including size of a store sales floor, number of

cash registers in the store, number of stores owned, and a measure of geography, such as metropolitan or other statistical areas that form distinct labor and product markets that affect food prices, for the purposes of applying appropriate competitive pricing criteria to stores at authorization and reauthorization and limiting payment for foods to competitive levels.

* * * * *

CHAPTER 1103. AUTHORIZATION OF STORES

§ 1103.1. Authorization and reauthorization process and requirements.

(a) *Duration of authorization or reauthorization.* To serve as a WIC authorized store, a store shall be authorized in accordance with subsection (b) or reauthorized in accordance with subsection (c). A store's authorization or reauthorization shall remain in effect until the Department acts on the store's application for reauthorization when the next periodic review is conducted in the trade area in which the store is located, unless terminated earlier in accordance with subsection (d). At least once every 3 years, the Department will conduct a periodic review in each trade area. Failure to submit an application for reauthorization as prescribed under subsection (c) shall result in expiration of the store's authorization or reauthorization. The Department will provide 30 days written notice to the store prior to expiration of authorization or reauthorization for any store failing to submit an application. A store that has received a letter of authorization dated less than 60 days prior to the date of the notice of the periodic review in the store's trade area shall be exempt from the periodic review.

(b) *Authorization process.*

(1) The store's representative shall contact the local agency responsible for the trade area where the store is located to request an application for authorization. The local agency shall send WIC Program information and an application for authorization to the store. The store shall complete the application for authorization and return it to the local agency.

(2) The Department will refuse to accept an application from a store if the store has been provided notice of disqualification or is disqualified from the WIC Program, if the Department determines that the store relocated or effected a change of ownership to avoid a disqualification, or if the store has been denied authorization or reauthorization and is not eligible to apply for authorization.

(3) The Department will not accept an application for authorization less than 90 days prior to the scheduled start date of the periodic review in that trade area unless the Department finds that there would be inadequate participant access, as set forth in § 1103.7 (relating to inadequate participant access), if it does not consider the application.

(4) If the store's application for authorization is accepted, the local agency shall schedule, as expeditiously as possible, an announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization). The local agency shall notify the store in advance of the approximate date of the review.

(5) The Department may request from the store any information necessary for the Department to determine whether the store qualifies as an above-50-percent-store. This information may include official State and Federal Income Tax filings, official State Sales Tax records,

inventory purchase records, sales records or a self-declaration from the applicant.

(6) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(7) The Department will deny the application if the selection criteria in § 1103.4 are not satisfied, unless the Department grants probationary authorization under § 1103.2 (relating to probationary authorization). The Department will notify the store in writing whether the store's application for authorization is granted or denied. If the Department denies the application for authorization, the store shall be eligible to reapply for authorization 6 months after the effective date of the denial.

(c) *Reauthorization process.*

(1) The Department will include an application for reauthorization with the notice of periodic review it sends to the store. The local agency will collect the application for reauthorization at the time of the announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4. The local agency shall notify the store in advance of the approximate date of the review.

(2) The Department may request from the store any information necessary for the Department to determine whether the store qualifies as an above-50-percent-store. This information may include official State and Federal Income Tax filings, Official State Sales Tax records, inventory purchase records, sales records or a self-declaration from the applicant.

(3) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(4) The Department will deny the application without advance warning if the selection criteria in § 1103.4 are not satisfied, unless the store requests and the Department grants temporary authorization in accordance with § 1103.3 (relating to temporary authorization) or the Department grants probationary authorization in accordance with § 1103.2. The Department will notify the store in writing whether the store's application for reauthorization is granted or denied. If the Department denies the application for reauthorization, the store shall be eligible to apply for authorization 6 months after the effective date of the denial. If the Department grants and later rescinds temporary authorization, the store shall be eligible to apply for authorization 1 year from the date of the first onsite review for reauthorization.

(d) *Termination of authorization or reauthorization.* The Department will terminate a store's authorization or reauthorization if:

- (1) The store has been disqualified.
- (2) The store supplied false information in the application for authorization or reauthorization.
- (3) The store is not serving at least 25 participants 8 months following authorization.
- (4) Ownership of the store changes
- (5) The store relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency.
- (6) The store closes for more than 3 business days and does not notify the Department.
- (7) The Department does not receive from the store, within 20 calendar days of the store's receipt of a written

notice from the Department, the information the Department has requested necessary for it to determine whether the store qualifies as an above-50-percent-store.

(8) After authorization of the store, the Department determines if the store qualifies as an above-50-percent-Store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

§ 1103.4. Selection criteria for authorization and reauthorization.

The Department will use the following selection criteria to identify stores that meet the operational criteria to serve as a WIC authorized store:

(1) The store shall be located within this Commonwealth.

(2) A store seeking reauthorization shall serve at least 25 participants per month. The Department will deny reauthorization if the store is not serving 25 participants per month in the most recent month for which the Department has participant data at the time the onsite review for reauthorization is conducted.

(3) The store shall have allowable foods properly stored and refrigerated.

(4) The store may not have stale-dated allowable foods on its sales floor.

(5) The store shall at all times have available on the premises the minimum inventory of allowable foods as established by the Department under § 1103.5 (relating to minimum inventory) at shelf prices that are equal to or less than the competitive prices applicable to the store's peer group for those foods. On a quarterly basis, the Department will publish in the *Pennsylvania Bulletin* and mail to all WIC authorized stores, the competitive prices and maximum allowable prices applicable to all peer groups for allowable foods for the next quarter.

(6) The store shall be open for business and able to serve participants at least 8 hours per day, 6 days per week.

(7) The store shall be sanitary. There may not be unremoved rubbish, vermin, or general lack of cleanliness.

(8) The store shall operate as a full line grocery store in a permanent fixed location where participants may purchase allowable foods with their WIC checks.

(9) If the store has been denied authorization or reauthorization within the past 12 months, the store must be eligible to apply for authorization under § 1103.1(b) or (c) or § 1103.3(b)(2) (relating to authorization and reauthorization process and requirements; and temporary authorization).

(10) The store may not be currently disqualified from participation in the Food Stamp Program or have been assessed a civil money penalty in lieu of a disqualification from the Food Stamp Program that, had it been imposed, would not yet have expired.

(11) The store may not be currently disqualified from the WIC Program.

(12) The store shall have implemented all required corrective actions resulting from monitoring by the Department, including reimbursement of any overcharges or overpayments, and shall be in compliance with the applicable Federal and State regulations.

(13) None of the store's current owners, officers, or managers shall have been convicted of or had a civil

judgment entered against them for conduct demonstrating a lack of business integrity.

(14) The store will not qualify or will not be expected to qualify as an above-50-percent-store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

(15) The store shall meet the minimum information technology requirements set by the Department. The Department will publish in the *Pennsylvania Bulletin* and mail to all WIC authorized stores, by September 15 of each year, the minimum technology requirements applicable for the following calendar year. This paragraph does not apply to stores authorized prior to September 12, 2009, and maintaining an uninterrupted authorized status.

§ 1103.8. Store peer group system.

(a) The Department will establish a store peer group system, including distinct competitive pricing criteria and allowable reimbursement levels for each peer group.

(b) The Department will create peer groups based upon at least two criteria selected by the Department. These criteria may include the size of a store sales floor, number of cash registers in the store, number of stores owned, and a measure of geography, such as metropolitan or other statistical areas that form distinct labor and product markets. The Department will annually publish the peer group selection criteria in the *Pennsylvania Bulletin*.

(c) The Department will place a store seeking authorization into an appropriate peer group based upon information gathered from the store's application as completed by the store and returned to the local agency in accordance with § 1103.1(b)(1) (relating to authorization and reauthorization process and requirements). The Department will notify a store of its peer group classification prior to conducting an onsite review under § 1103.1(b)(5). A WIC authorized store seeking reauthorization shall remain in the peer group previously selected for the store unless otherwise notified by the Department.

(d) A WIC authorized store shall adhere to the competitive prices and maximum allowable prices applicable to the store's peer group.

(e) A WIC authorized store shall inform the Department of any store changes applicable to the peer group selection criteria in effect.

CHAPTER 1105. REQUIREMENTS OF WIC AUTHORIZED STORES

§ 1105.1. Training.

(a) *Initial training.* Following authorization, the local agency shall provide initial training for the personnel the WIC authorized store designates. The training shall be mandatory and shall occur within 30 days after the date of authorization. A store receiving authorization may not accept WIC checks prior to having its designated personnel attend the initial mandatory training.

(b) *Annual training.* The Department will provide for WIC authorized stores annual training which is designed to prevent WIC Program errors and abuses and to improve WIC Program services. The following apply to annual training:

(1) A WIC authorized store shall ensure that at least one representative from the store who is responsible for training store personnel on the WIC Program shall attend.

(2) Attendance is mandatory.

(3) The Department will offer each WIC authorized store two opportunities to attend.

(4) The Department will ensure that annual training is offered to a WIC authorized store either within the county in which it is located or in an adjoining county within the appropriate local agency's jurisdiction.

(5) Failure to have at least one representative attend training shall result in the Department imposing sanctions against the WIC authorized store under § 1107.1a(d)(15) (relating to disqualifications).

(c) *Corrective training.* The Department will provide corrective training as set forth in §§ 1103.2 and 1105.6 (relating to probationary, authorization; and monitoring of WIC authorized stores). Attendance is mandatory.

§ 1105.2. Price adjustment.

(a) *Determination of overpayment.* In each calendar quarter, the Department will compare the maximum amount for which a WIC authorized store could have redeemed a WIC check, based upon the maximum allowable prices applicable to the store's peer group for foods authorized for purchase on the check, against the actual amount for which the WIC check was redeemed, to determine whether there was an overpayment.

(b) *Pursuit of reimbursement.* The Department will seek reimbursements from a WIC authorized store when the price comparison reveals overpayments to the store in excess of \$10 in a calendar quarter.

(c) *Reimbursement of overpayments.* A WIC authorized store shall reimburse the Department for overpayments within 20-calendar days of the date on the Department's notice of the overpayment, unless the WIC authorized store disputes the determination of overpayment.

(d) *Dispute of overpayments.* A WIC authorized store that disputes a determination of overpayment shall submit the basis for its dispute in writing to the Department, postmarked within 15-calendar days of the date on the Department's notice. Reimbursement the Department determines is owed shall be due within 15-calendar days of the mailing date of the Department's notification of its resolution of the dispute. The Department's resolution of a dispute regarding overpayments is not an adverse action that may be appealed.

(e) *Sanctions.* The Department will impose a sanction against a WIC authorized store under § 1107.1a(d)(11) (relating to disqualifications) if the store fails to reimburse the Department for an overpayment within the time required under subsections (c) and (d).

§ 1105.3. Terms and conditions of participation.

(a) *General terms and conditions.* A WIC authorized store shall adhere to this subsection. Failure to do so shall result in the imposition of sanctions under § 1107.1 (relating to imposition of sanctions). A WIC authorized store shall:

(1) Adhere to all applicable statutes and State and Federal regulations, regulating the WIC Program, including the nondiscrimination provisions of 7 CFR Parts 15, 15a, 15b and 246, and this part.

(2) Inform the public of its participation in the WIC Program by displaying at least one WIC decal supplied by the Department in a place conspicuously visible to the general public.

(3) Be accountable for the actions of owners, officers, managers, agents and employees in the handling of WIC

checks, the selling of allowable foods, and the performance of other conduct related to the WIC Program.

(4) Comply with the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) throughout the authorization period.

(5) Provide orientation and training to employees regarding applicable regulations governing the WIC Program.

(6) Maintain a copy of the current WIC food list at each check-out aisle.

(7) Send at least one representative who is responsible for training store personnel on the WIC Program to WIC Program training annually, or more often if required by the Department under § 1105.1(c) (relating to training).

(8) Immediately notify the Department when store ownership changes, when store operations cease on a permanent or temporary basis, or when any other circumstance impacting service to participants occurs.

(9) Allow Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, to visit the store to observe its procedures for accepting and handling WIC checks and to conduct announced or unannounced onsite reviews to determine compliance with applicable Federal and State regulations.

(10) Provide Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, access to all WIC checks accepted by the store and on its premises at the time of an onsite review.

(11) Provide Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, access, which includes providing copies if requested by the Department, to purchase records used for Federal tax reporting purposes and other records as requested to determine compliance with WIC Program requirements.

(12) Agree that authorization does not constitute a license or a property interest, that the store must reapply for authorization in accordance with § 1103.1(c) (relating to authorization and reauthorization process and requirements), and that neither the Department nor the WIC authorized store has an obligation to renew the store's authorization to participate in the WIC Program.

(13) Agree that the store's authorization to participate in the WIC Program shall become void when ownership of the store changes.

(14) Display the current shelf price of each allowable food either on the allowable food, on the shelf immediately above or below the allowable food, or prominently on an allowable food price list easily located by participants and clearly visible to them.

(15) Not transfer or assign its WIC authorization or reauthorization to another person or entity.

(16) Maintain purchase records and records used for Federal tax reporting purposes for allowable foods for a minimum of 2 years.

(17) Purchase infant formula for resale to WIC participants only from Department authorized infant formula manufacturers, wholesalers, distributors or retailers. Information on where to obtain the list will be published by

the Department in the *Pennsylvania Bulletin* simultaneously with the initial publishing of this subsection.

(18) Provide the Department, within 20 calendar days of the store's receipt of a written notice from the Department requesting the additional information, any information the Department has requested necessary to determine whether the store qualifies as an above-50-percent-store. This paragraph does not apply to stores solely owned or operated by nonprofit entities.

(b) *Terms and conditions of participation with regard to participants.* A WIC authorized store shall serve participants and authorized representatives as set forth in this subsection. The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Provide allowable foods to a participant or authorized representative only as authorized on the WIC food list as specified on the WIC check.

(2) Not encourage or discourage a participant or authorized representative from purchasing an allowable food specified on the WIC check.

(3) Provide an allowable food to a participant or authorized representative at or below the current price the store charges other customers, and at or below the maximum allowable price applicable to the store's peer group.

(4) Not seek restitution or payment from a participant or authorized representative for a WIC check not reimbursed by the Department, or contact a participant or authorized representative concerning a WIC transaction that occurs in the store.

(5) Not seek restitution or payment from a participant or authorized representative for an allowable food authorized for purchase on the WIC check tendered by the participant or authorized representative.

(6) Not request the personal address, telephone number or other personal identification of a participant or authorized representative.

(7) Offer each participant or authorized representative the same courtesies offered other customers, and not distinguish or identify a participant or authorized representative from other customers, if no other terms and conditions of participation are violated in doing so.

(8) Provide services to each participant or authorized representative without regard to race, color, age, sex, religion, nationality origin or disability.

(9) Provide the same promotional incentive for a purchase made with a WIC check as given for a cash purchase.

(10) Accept cents-off coupons, a store discount card or other discounts from a participant or authorized representative for an allowable food, and deduct the savings in calculating the total purchase price entered into the "Pay Exactly" amount on WIC checks.

(11) Accept "buy one get one free" coupons and manufacturers' promotional free product offers from a participant or authorized representative.

(12) Provide a promotional incentive for use of a WIC check only if the same incentive is offered for a cash purchase.

(c) *Terms and conditions of participation with regard to WIC check processing and redemption.* A WIC authorized store shall adhere to the requirements of this subsection with regard to WIC check processing and redemption.

The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Treat the acceptance of a WIC check as a financial transaction between the WIC authorized store and the Department, not the participant.

(2) Accept a WIC check only if the participant or authorized representative presents the WIC check on or between the "First Day to Use" and the "Last Day to Use" designations on the WIC check.

(3) Accept a WIC check only if a valid WIC identification card is presented at the time of the WIC transaction.

(4) Accept a WIC check only if the signature of the participant or authorized representative is obtained on the WIC check at the time of the WIC transaction and the family identification number on the WIC check matches the family identification number on the identification card.

(5) Accept a WIC check only if there is no visible alteration on the WIC check.

(6) Charge the WIC Program only for the types and quantities of allowable foods specified on the WIC check and selected for purchase by the participant or authorized representative.

(7) Record in ink, on each WIC check immediately after completion of the WIC transaction and prior to the participant or authorized representative signing the WIC check, the actual purchase amount of the transaction net of any cents-off coupons or other discounts.

(8) Properly correct an error made in recording the "Pay Exactly" amount of a WIC check by drawing a single line through the incorrect amount and writing the correct amount above or below the error and having the participant or authorized representative initial next to the corrected amount. No other corrections are permissible.

(9) Not alter any information on the WIC check as presented by the participant or authorized representative.

(10) Not provide a substitute item, raincheck or cash reimbursement for an allowable food that is unavailable.

(11) Not provide cash or credit for a WIC check.

(12) Not provide change for a coupon tendered during the WIC transaction.

(13) Not provide an exchange to replace an allowable food returned by a participant or authorized representative unless the exchange is to replace an identical product that was found to be damaged or otherwise unusable.

(14) Not refund money for an allowable food purchased in a WIC transaction that is returned by a participant or authorized representative.

(15) Not accept a WIC check as payment for an item other than an allowable food specified on the WIC check.

(16) Not charge the WIC Program for an allowable food not received by the participant or authorized representative or for an allowable food in excess of the quantity prescribed on the WIC check.

(17) Not charge the WIC Program for the sale of an amount of an allowable food which exceeds the store's documented inventory of that food item covering the period of time under review and in which the sale was made.

(18) Prior to depositing WIC checks, transmit records of WIC check numbers from WIC checks accepted by the

store to the Department through transmission mechanisms made available by the Department.

(19) Deposit a WIC check accepted by it directly to its bank account no later than 45 days after the "First Day to Use" date on the WIC check.

(20) Not receive, transact, redeem or otherwise dispose of a WIC check in violation of check redemption procedures set forth in this section.

(21) Not use a WIC check for the purchase of any item other than an allowable food or for the payment of any debt.

(22) Not collect Sales Tax in connection with a WIC transaction.

(d) *Denial of.* When the Department determines, prior to payment of a check submitted for redemption, that the store has committed a violation of this section that affects the payment to the store, the Department may deny payment. If payment already has been made, the Department may establish a claim for reimbursement by sending the store a written notice of the overcharge or other improper charge. The store may dispute the Department's claim and shall submit the basis for its dispute in writing within 15-calendar days of the date of the Department's written notice. The Department will notify the store of the resolution of the claim dispute. The Department's resolution of a claim dispute is not an adverse action that may be appealed.

§ 1105.5. Changes in availability or location of WIC authorized stores.

(a) *Notification of store closing.* A WIC authorized store shall notify the Department at least 15 days prior to a temporary or permanent closing of the store, and provide the reason for closing and the expected duration of a temporary closing, if it has at least 15 days prior knowledge. Otherwise, it shall provide this information to the Department immediately after it acquires the information.

(b) *Temporary store closing.* The Department may permit a WIC authorized store to temporarily close for reasons such as a natural disaster, death in immediate family or personal illness, without imposing a sanction against the store. In making a determination to permit a temporary closure, as well as the length of time of the closure, the Department will consider circumstances such as the nature of the disaster, number of WIC authorized stores affected by the disaster, nature and expected duration of illness, length of closing anticipated by the WIC authorized store, number of and distance to other WIC authorized stores, number of participants served by the store, or any other information that the Department may determine to be relevant.

(c) *Store closing for remodeling.*

(1) A WIC authorized store that closes for less than 15 days for remodeling shall continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for remodeling.

(2) A WIC authorized store that closes in excess of 15 store operation days for remodeling, shall automatically lose its status as a WIC authorized store and shall apply for and secure authorization before it may again serve as a WIC authorized store.

(d) *Store relocations.*

(1) A WIC authorized store that relocates 1 mile or less from its current location or within the same geographical area assigned to the local agency, and reopens within 15-calendar days at its new location, shall provide the Department with written notification of its new address.

The store will continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for relocating.

(2) A WIC authorized store that relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency shall automatically lose its status as a WIC authorized store and shall apply for authorization at its new location to again serve as a WIC authorized store.

(3) A WIC authorized store that closes in excess of 3 store operation days for relocating shall notify the Department before doing so, or shall automatically lose its status as a WIC authorized store and shall apply for authorization to again serve as a WIC authorized store.

§ 1105.6. Monitoring of WIC authorized stores.

(a) *Purpose and types of monitoring of WIC authorized stores.*

(1) Federal, State or local representatives will conduct announced and unannounced onsite reviews of WIC authorized stores to determine compliance with applicable Federal and State regulations, and to investigate complaints regarding a store. The types of onsite reviews that may be conducted for monitoring purposes are compliance investigations, inventory audits, routine reviews and WIC transaction reviews. The monitoring process, to determine compliance with applicable Federal and State regulations, operates independently of the authorization process and may overlap more than one authorization period.

(2) The Department will conduct an annual analysis of a WIC authorized store's sales data to determine whether the store qualifies as an above-50-percent-store, except that stores solely owned or operated by nonprofit entities shall not be subject to this annual analysis.

* * * *

(h) *Annual determination of WIC sales percentage.* The Department may request from a store information necessary for the Department to determine whether the store qualifies as an above-50-percent store. This information may include a request for State or Federal Income Tax returns, State Sales Tax records, Department of Revenue Form PA-3 filings, and sales records. This paragraph does not apply to stores owned by nonprofit entities.

CHAPTER 1107. SANCTIONS

§ 1107.1a. Disqualifications.

* * * *

(d) *One-year disqualification.* The Department will disqualify a WIC authorized store for 1 year for any of the following violations:

(1) Two or more incidences of providing a food item other than an allowable food in exchange for WIC checks.

(2) Two or more incidences of providing an allowable food in excess of the amount authorized for purchase on the WIC check.

(3) Having a stale-dated allowable food on the sales floor.

(4) Failing to maintain on the premises, at all times minimum inventory requirements of an allowable food at or below the current competitive price applicable to the store's peer group for that food.

(5) Two or more incidences of failing to request a WIC identification card prior to accepting a WIC check.

(6) Failing to maintain a clean and sanitary store.

(7) Failing to properly store or refrigerate an allowable food.

(8) Closure of the store by a city, local or county health department.

(9) Charging or demanding that a participant or authorized representative pay for an allowable food with money or with another WIC check for purchases made with a WIC check.

(10) Two or more incidences of securing the signature of the participant or authorized representative prior to completing the "Pay Exactly" box on the WIC check.

(11) Two or more incidences of charging the WIC Program sales tax.

(12) Giving monetary change to the person who tenders a WIC check.

(13) Failing to reimburse the Department for overpayments, overcharges or other improper charges within the specified time frame.

(14) Physically altering or changing on the face of a WIC check the store name, food type or quantity, participant information, date, or printed dollar amount.

(15) Failing to have at least one representative of the store attend required training.

(16) Providing false information on the application for authorization or reauthorization.

(e) *Second mandatory sanction.* If a WIC authorized store, which previously has been assessed a sanction for any of the violations in subsections (b)—(d), receives another sanction for any of these violations, the Department will double the second sanction. The Department will double civil money penalties up to the limits allowed under § 1107.2(c) (relating to civil money penalties).

* * * *

§ 1107.2. Civil money penalties.

(a) *Option available in lieu of a disqualification or denial of reauthorization.* The Department may offer to a WIC authorized store the option of paying a civil money penalty in lieu of a denial of reauthorization or a disqualification required under § 1107.1 (relating to imposition of sanctions), only if the Department finds inadequate participant access as set forth in § 1103.7 (relating to inadequate participant access). The Department will not provide this option for third or subsequent violations under § 1107.1a(b)—(d) (relating to disqualifications) or for any permanent disqualifications under § 1107.1a(a).

(b) *Calculation of civil money penalty.*

(1) For a civil money penalty in lieu of a disqualification under § 1107.1a(b), (c) or (d)(1) and (2), the Department will calculate the civil money penalty for each violation identified by multiplying 10% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(2) For a civil money penalty in lieu of disqualification under § 1107.1a(d)(3)—(15), the Department will calculate the civil money penalty for each violation identified by multiplying 5% of the average monthly total value of WIC checks redeemed for the most recent 6-month period

by the number of months the store would be disqualified under § 1107.1. For a store to which the Department may deny reauthorization and for which this option is available, the Department will multiply 5% of the average monthly total value of WIC checks for the most recent 6-month period by 6 months to determine the civil money penalty to be paid. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(c) *Limitation of penalties.* The amount of the civil money penalty will not exceed \$10,000 for each violation. If, during the course of a single investigation, the Department determines a store has committed multiple violations, the Department will impose a civil money penalty for each violation. The total civil money penalty for all violations investigated as part of a single investigation will not exceed \$40,000.

(d) *Written agreement.* If the Department offers and the store agrees to pay a civil money penalty in lieu of disqualification, the Department and store shall set forth the terms of the agreement in writing. The terms may include a probationary period during which the Department may conduct monitoring to ensure action has been taken by the store to correct problems. The agreement will be effective when it is signed by the Director of the Division of WIC or the Director's designee.

(e) *Payment of the civil money penalty.* If a WIC authorized store does not pay, only partially pays, or fails to timely pay a civil money penalty assessed in lieu of disqualification, the Department will disqualify the WIC authorized store for the length of the disqualification authorized for the violation for which the civil money penalty was assessed. If a civil money penalty is assessed for more than one violation, the Department will impose the disqualification for the period authorized for the most serious violation. The Department may permit payment of a civil money penalty by installments.

(f) *Outstanding financial liabilities.* Payment of the civil money penalty, unless specifically provided for in a written agreement between the Department and the store, does not relieve the store of any other past or future financial liability incurred by the store by reason of its participation in the WIC Program. This includes, by way of example, reimbursement to the Department of overpayments.

CHAPTER 1113. STORE APPEALS

§ 1113.1. Right to administrative appeal.

(a) A store has the right to appeal an adverse action of the Division of WIC that affects the store's participation in the WIC Program as a WIC authorized store. Adverse actions include:

(1) Termination of authorization or reauthorization in accordance with § 1103.1(d) (relating to authorization and reauthorization process and requirements).

(2) Denial of an application for authorization or reauthorization.

(3) Refusal to accept an application for authorization or reauthorization.

(b) A store may not appeal the following:

(1) The expiration of authorization or reauthorization.

(2) The validity or appropriateness of selection criteria.

(3) The validity or appropriateness of the Department's participant access criteria and the Division of WIC's participant access determination.

(4) The validity or appropriateness of the Department's store peer group system criteria and the criteria used by the Department to identify stores that qualify as an above-50-percent-store or that are comparable to above-50-percent-stores.

(5) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

(6) The resolution of an overpayment dispute under § 1105.2(d) (relating to price adjustment) or the resolution of an overcharge dispute under § 1105.3(d) (relating to terms and conditions of participation).

(c) A denial of authorization under § 1103.1(b)(7) and a disqualification imposed under § 1107.1a(a) (relating to disqualifications) shall be effective on the date of the store's receipt of notice of the adverse action. All other adverse actions shall be effective on the date set forth in the written notice.

[Pa.B. Doc. No. 09-1678. Filed for public inspection September 11, 2009, 9:00 a.m.]

Title 37—LAW

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 221]

Retired Law Enforcement Officers Identification and Qualification Cards

Description and Purpose

Under section 7 of the Retired Law Enforcement Identification Act (act) (53 P.S. § 753.7), the Municipal Police Officers' Education and Training Commission (Commission) is required to promulgate regulations necessary to carry out the provisions of the act. This final-form rulemaking provides for the eligibility, requirements, contents, issuance, and replacement of identification and qualification cards for retired Pennsylvania law enforcement officers.

Statutory Authority

This final-form rulemaking is authorized under section 7 of the act.

Effect

This final-form rulemaking will affect former law enforcement officers who retired from law enforcement agencies in this Commonwealth.

Effective Date/Sunset Date

These regulations will be continually monitored and updated as needed. Therefore, no sunset date has been set.

Comments and Responses

The Commission received several comments from members of the public who were concerned that the final-form rulemaking did not apply to individuals who retired from a Federal or out-of-State law enforcement agency. To address these concerns, the Commission amended § 221.31 (relating to eligibility). The Commission made no change to § 221.21 (relating to eligibility). For pur-

poses of issuing a retired law enforcement officer identification card, the State law only governs individuals who retired from law enforcement agencies in this Commonwealth. Individuals who retired from a Federal or out-of-State agency are authorized to carry under 18 U.S.C. § 926C(d)(2) (relating to carrying of concealed firearms by qualified retired law enforcement officers) by obtaining an identification card from the agency they retired from, coupled with a qualification card issued in this Commonwealth.

One commentator was concerned that §§ 221.21 and 221.31 could be interpreted to mean an individual was not eligible for an identification or qualification card unless the individual spent an aggregate of 15 or more years with a single, law enforcement agency in this Commonwealth. These sections have been clarified to eliminate that concern. One retiree asked whether the Commission or the former agency would determine whether the individual had retired in good standing with the requisite years of service. Section 221.21 has been revised to clarify that the decision will be made by the current head of the public agency from which the officer retired.

The Commission also received these additional comments from the Independent Regulatory Review Commission (IRRC):

IRRC noted that the terms “agency,” “public agency,” “law enforcement agency,” “issuing agency,” “law enforcement agency from which the applicant retired” and “retiring agency” seemed to be used interchangeably throughout the regulations. The final-form rulemaking has been revised to use the term “public agency” with more consistency.

Sections 221.23(b), 221.24(a) and 221.34(a) either require or permit a retired law enforcement officer to make requests related to identification and qualification cards. IRRC said the final-form rulemaking should specify whether these requests must be in writing. Public agencies in this Commonwealth that employ law enforcement officers vary greatly in terms of size and internal operating procedures. Accordingly, the Commission decided to leave the required form of request to the discretion of the individual public agencies and firearms instructors.

The definition of “certified law enforcement firearm instructor” in § 221.2 contains the phrase “or other certification approved by the . . . Commission.” IRRC believes the regulation should set forth the specific methods for obtaining “other certification” from the Commission. The Commission declined this suggestion as unnecessary because substantially similar language exists in the Commission’s current regulations regarding approval of CPR certifications and police training courses.

IRRC said the Commission should explain how a retired officer’s eligibility for a retired law enforcement identification card is affected by the Pension Forfeiture Act. IRRC’s suggestion was prompted by an objection from the Fraternal Order of Police (FOP), Pennsylvania State Lodge to § 221.21(4), which requires an officer to have a nonforfeitable right to benefits under the retirement plan of a public agency to be eligible for an identification card. That eligibility requirement is mandated by the Federal law, 18 U.S.C. § 926C(c)(3)(B)(5). Based on this eligibility requirement, the FOP mistakenly contends that no retired officer has a truly nonforfeitable right to benefits because a public official or employee’s pension is subject to forfeiture if the person is convicted of certain criminal offenses. However, the Pension Forfeiture

Act only pertains to offenses committed in relation to one’s office or employment. Therefore, if an officer retires without committing one of the enumerated offenses, the officer has a nonforfeitable right to retirement benefits.

IRRC commented on a discrepancy between language in the act and § 221.21(5) and § 221.31(2)(x) of the proposed rulemaking. Section § 221.21(5) has been removed. Section 221.31(2)(x) has been revised to be consistent with the act.

IRRC noted that § 221.22(b)(9) requires the identification card to contain “other information” as designated by the Commission. IRRC asked how one would know what other information to put on the card. IRRC also felt this provision seems to conflict with subsection (a), which requires all cards to be uniform. IRRC expressed a similar concern about § 221.32(b)(9). Subsection (b)(9) has been eliminated in both §§ 221.22 and 221.32.

IRRC asked why it is an option for a retired officer to obtain a replacement card under §§ 221.24(a) and 221.34(a) but it is a requirement to do so under §§ 221.24(b) and 221.34(b). If the identification card originally issued to a retired officer has been lost, stolen, destroyed, mutilated, or is illegible and the retired officer wants to carry a concealed weapon under the Federal Law Enforcement Officers Safety Act, the retired officer may choose to obtain a replacement card. If the officer does not want to carry a weapon, the person may choose not to have the identification card replaced. On the other hand, if there is an error on the card or information on the card is no longer correct, the card needs to be replaced with one containing accurate information. IRRC also asked why there is a fee for a replacement card under the former subsections but not the latter subsections. IRRC also asked the amount of the fees. IRRC questioned whether an individual must apply for replacement cards. IRRC noted that § 221.23 specifies the time frame within which a law enforcement agency must issue an initial identification card but does not set forth a time frame for issuing a replacement card. These subsections have been amended to clarify that there is a fee for all types of replacement cards unless the need for a replacement card is based on an error caused by the public agency. Then no fee will be charged. The Commission declined to set forth the amount of the fee in the regulation itself. The cost of replacing the card will depend on the cost of producing the cards at that point in time. The Commission does not want to have to change its regulation any time production costs change. The specific procedure and time frame for obtaining a replacement card will be determined by the agency issuing the identification card.

IRRC noted that commentators questioned what entity would be responsible for verifying that a retired officer meets the 16 criteria under § 221.31(2). This is a self-verification process in which the retiree certifies, under penalty of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), that the person meets all of the eligibility criteria.

IRRC commented on Representative Ronald Marsico’s concern that there is an inherent conflict between § 221.31(2)(ii), which acknowledges that a retired officer can carry an “automatic weapon” and § 221.2(ix), which excludes “machine guns” from the definition of firearms. The two subsections do not conflict because there are fully automatic pistols that are not machine guns. IRRC questioned the need to permit a retired officer to carry an automatic weapon. Regardless of necessity, Federal law permits retired officers to carry automatic weapons.

IRRC pointed out that § 221.33(c) requires retired officers to meet firearms training and qualification standards without specifying what those standards are. IRRC believes the specific standards should be set forth in the regulation. The Commission declined this suggestion because current regulations for active law enforcement officers require officers to meet standards established by the Commission without setting forth the specific standards in the regulations itself. IRRC questioned how long sheriffs and firearms instructors must maintain records and in what form they should be retained. IRRC also asked the Commission to specify the acceptable format for instructors and sheriffs to submit certain records to the Commission. The regulation has been revised accordingly.

Finally, IRRC asked the Commission to make certain revisions in §§ 221.21(5), 221.21(6), 221.31(2)(xiv) and 221.31(2)(xv). The Commission made the appropriate amendments.

The Commission received comments from the Pennsylvania State Association of Township Supervisors (Association). First, the Association asked whether public agencies must reissue identification cards periodically or simply replace lost, stolen, or illegible cards. The regulations state the circumstances under which a public agency must reissue cards; otherwise, reissuance of the cards is at the discretion of the public agency, provided all cards meet the required standards. The Association also questioned whether a public agency has an obligation to notify the Commission when it issues an identification card. The regulations do not require public agencies to notify the Commission of the issuance of identification cards.

The Commission received the following comments from the Board of Probation and Parole, the County Chief Adult Probation and Parole Officers Association of Pennsylvania, and the County Probation and Parole Officers Firearm Education and Training Commission (parole officials):

First, parole officials asked if a retiree can qualify on the weapon on which an agency's active employees qualify, or any weapon. The regulations do not limit qualification to any specific weapon. If a public agency chooses to qualify its retirees based on the agency's standards, the public agency is free to specify what weapon must be used in the course of fire. However, a public agency has no obligation to qualify its retirees.

Next, parole officials questioned whether a retiree must qualify with the agency from which the person retired. A public agency elects to qualify its retired employees by the agency standards; a retiree can choose to qualify with that agency or can choose to qualify with any other certified firearms instructor. The qualification card will be issued by the agency or instructor that actually qualified the retiree.

Parole officials asked whether a public agency can charge a fee to qualify retirees. Again, public agencies have no obligation to qualify their retirees. If an agency chooses to do so, the agency would have to decide whether to charge a fee for its services.

Parole officials felt § 221.23(a) seemed to contradict § 221.23(c). Section 221.23(a) and (b) has been revised to clarify that a public agency does not have to issue a retired identification card until after the officer has paid the requisite fee.

Parole officials complained that the definition of "certified firearm instructor" does not include firearms instructors from the Board of Probation and Parole's Firearms Instructor Course. Parole officials are under no obligation

to certify any retirees. If they choose to do so, the Commission has the authority to recognize their instructors as certified law enforcement firearms instructors.

Parole officials asked whether firearms instructors must issue a separate qualification card for each weapon the retiree qualifies with. A qualification card is issued when an instructor determines a person has qualified under the applicable standards. The card is not connected to a specific weapon.

Parole officials asked about the type of ammunition required for qualification and whether a retiree must qualify with the public agency's ammunition or bring his own ammunition. Parole officials also asked whether there is a standardized course of fire available to retirees or whether that will be determined on a case-by-case basis. The statute and regulations define the Commonwealth's standards for training and qualification as either the standards established by the public agency from which the officer retired or by the Commission. Again, parole officials have no duty to qualify any retirees. If they choose to do so, the individual public agency determines its own standards and course of fire for training and qualification.

Parole officials questioned whether the regulations apply to all former retirees. They posed the hypothetical of someone who retired 10 years ago and asked whether the agency would first be required to put the retiree through its active employee qualification course of fire. They also asked what is meant by the "State's standards" in § 221.21(5). Public agencies are under no obligation to qualify their retirees. If they choose to do so, a public agency could use its own standards for training and qualification or those approved by the Commission. Section 221.25(5) has been removed from the final rulemaking.

Finally, parole officials asked who bears the responsibility for ensuring a retiree has met all of the eligibility requirements under § 221.31. As explained previously, a retiree is responsible for certifying, under penalty of 18 Pa.C.S. § 4904, that the person meets the enumerated criteria.

The Commission received the following comments from Representative Ronald S. Marsico, Republican Chairperson of the House Judiciary Committee:

Representative Marsico pointed out several typographical errors in the proposed rulemaking, all of which have been corrected. He also perceived an inherent conflict between §§ 221.21(5) and 221.31(2)(iii). Section 221.21(5) of the proposed rulemaking has been removed. Representative Marsico noted an inconsistency between terminology in §§ 221.21(6) and 221.31(2)(viii), which has been corrected.

Representative Marsico raised a question about whether an individual needed to meet all 16 requirements in § 221.31. The Commission clarified that all 16 requirements must be met by correcting a typographical error in the proposed regulations.

Representative Marsico pointed out the need to recognize that officers who retired from a Federal or out-of-State public agency would need to obtain an identification card from that agency. This clarification has been made in the final-form rulemaking.

Finally, Representative Marsico asked several questions about the need to record the type of ammunition used in the firearms qualification process. This requirement conforms to routine firearms qualification practices.

The Commission received no comments from Senate Law and Justice Committee or any other member of the House Judiciary Committee.

Regulatory Review

On, March 14, 2008, copies of the proposed rulemaking were delivered to IRRC and the Majority and Minority Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee (Committees). Notice of proposed rulemaking was published at 38 Pa.B. 1486 (March 29, 2008) and provided for a 30-day public comment period. In compliance with section 5(c) of the Regulatory Review Act, the Pennsylvania State Police provided IRRC and the Committees with copies of all comments received during the public comment period, as well as other documents if requested. In preparing the final-form rulemaking, the Pennsylvania State Police has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the Committees. Under section 5.1(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC on August 6, 2009.

Contact Person/Public Comment

For further information on the final-form rulemaking, contact Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. Persons with a disability who require an alternative format of this document (for example, large print, audio tape, Braille) should contact Syndi L. Guido so that she may make the necessary arrangements.

Findings

The Commission finds that:

(1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating of notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered and forwarded to IRRC, the Senate Committee on Law and Justice and the House Judiciary Committee.

(3) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statute.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 37 Pa. Code, are amended by adding §§ 221.1, 221.2, 221.21—221.25 and 221.31—221.35 as set forth in Annex A.

(b) The Commission will submit this order and Annex A to the Office of General Counsel and Office of Attorney General as required by law for approval as to form and legality.

(c) The Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

COLONEL FRANK E. PAWLOWSKI,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 5096 (August 22, 2009).)

Fiscal Note: Fiscal Note 17-75 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

Subpart B. RETIRED LAW ENFORCEMENT IDENTIFICATION AND QUALIFICATION

CHAPTER 221. RETIRED LAW ENFORCEMENT OFFICERS IDENTIFICATION AND QUALIFICATION CARDS

Subch.	Sec.
A. GENERAL PROVISIONS.....	221.1
B. RETIRED LAW ENFORCEMENT IDENTIFICATION CARDS.....	221.21
C. QUALIFICATION CARD	221.31

Subchapter A. GENERAL PROVISIONS

Sec.	Purpose.
221.1.	Purpose.
221.2.	Definitions.

§ 221.1. Purpose.

This chapter provides for the issuance of identification and qualification cards for retired law enforcement officers as provided under section 7 of the act (53 P. S. § 753.7), regarding rules and regulations.

§ 221.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Retired Law Enforcement Identification Act (53 P. S. §§ 753.1—753.9).

Certified law enforcement firearm instructor—An individual who possesses a current police firearms instructor rating from the National Rifle Association, the Pennsylvania State Police, the Municipal Police Officers' Education and Training Commission, the Deputy Sheriffs' Education and Training Board, the Federal Bureau of Investigation, the Smith & Wesson Academy, the Philadelphia Police Academy or the United States Secret Service or other certification approved by the Municipal Police Officers' Education and Training Commission.

Commission—The Municipal Police Officers' Education and Training Commission.

Commonwealth's standards for training and qualification for active law enforcement officers to carry a firearm—The standards established by the public agency from which a law enforcement officer retired or by the Commission for training and qualification to carry a firearm of the same type as the concealed firearm, provided that the Commission does not charge a fee to certified law enforcement firearm instructors and officers for the standards, whether access to the standards is given through the Internet or some other form for publication.

Confirmation number—A unique approval number provided by the Pennsylvania State Police to the sheriff after

a check of the applicant's criminal history record, juvenile delinquency record and mental health record.

Identification card—A retired law enforcement officer identification card authorized under section 4 of the act (53 P.S. § 753.4), regarding retired law enforcement identification card.

Qualification card—A valid firearm training and qualification card authorized under section 5 of the act (53 P.S. § 753.5), regarding firearm training and qualification card. When carried with an identification card, a qualification card constitutes a Pennsylvania license to carry a firearm.

Retired law enforcement officer or office—A qualified retired law enforcement officer as defined in 18 U.S.C. § 926C(c) (relating to carrying of concealed firearms by qualified retired law enforcement officers).

Subchapter B. RETIRED LAW ENFORCEMENT IDENTIFICATION CARDS

Sec.	
221.21.	Eligibility.
211.22.	Identification card contents.
221.23.	Identification card issuance.
221.24.	Replacement; error or change in material information.
221.25.	Challenge to issuance of identification card.

§ 221.21. Eligibility.

An identification card shall only be issued to an individual who meets the following conditions:

- (1) Retired in good standing, for reasons other than mental instability, from service with a public agency as a law enforcement officer as determined by the current head of that public agency.
- (2) Before retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest.
- (3) Before retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more or retired from service with a public agency, after completing any applicable probationary period of service, due to a service-connected disability, as determined by the public agency.
- (4) Has a nonforfeitable right to benefits under the retirement plan of the public agency.
- (5) Is not prohibited by Federal law from receiving or possessing a firearm.

§ 221.22. Identification card contents.

- (a) Identification cards must be uniform throughout this Commonwealth and on a form prescribed by the Commission.
- (b) The identification card must contain the following:
 - (1) The caption "Retired Law Enforcement Identification Card."
 - (2) The photograph of the retired law enforcement officer.
 - (3) The name, address, date of birth, race, sex, height, weight, color of hair, color of eyes, and signature of the retired law enforcement officer.
 - (4) The signature of the law enforcement officer issuing the identification card.
 - (5) The name, telephone number and address of the public agency issuing the identification card.
 - (6) The date the identification card was issued.

(7) The statement that "this card does not give the retired law enforcement officer any police powers, including any authority to arrest."

(8) The statement that "the retired law enforcement officer must carry both the identification card and qualification card in order to carry a concealed firearm."

§ 221.23. Identification card issuance.

- (a) A public agency shall provide each retired law enforcement officer with an identification card, within 60 days of the officer's retirement, provided the officer has paid the requisite fee.
- (b) If a law enforcement officer has retired prior to September 12, 2009, upon request of the retired law enforcement officer, a public agency shall provide the law enforcement officer with an identification card, within 60 days of the officer's request, provided the officer has paid the required fee.

(c) A public agency may charge a reasonable fee, not to exceed \$15, for each identification card, or replacement card. The identification card may not be issued until the retired law enforcement officer has paid the fee.

§ 221.24. Replacement; error or change in material information.

- (a) *Replacement*. If an identification card is lost, stolen, destroyed, mutilated or becomes illegible, the retired law enforcement officer may obtain a replacement identification card upon request to the public agency and payment of the required fee.
- (b) *Error or change in information*. If any information on an identification card has changed, or is in error, from the information originally set forth, the retired law enforcement officer shall apply to the public agency, and submit the required fee, for a new identification card within 15 days of the change or discovery of the error. A fee will not be charged if the public agency caused the error to occur.

§ 221.25. Challenge to issuance of identification card.

The Commission will have standing to contest issuance of any identification card subject to the provisions of §§ 203.101–203.103 (relating to notice and hearings).

Subchapter C. QUALIFICATION CARD

Sec.	
221.31	Eligibility.
221.32	Qualification card contents.
221.33	Qualification card issuance.
221.34	Replacement; error or change in material information.
221.35	Challenge to issuance of qualification card.

§ 221.31. Eligibility.

- A retired law enforcement officer shall be eligible for a qualification card if the retired law enforcement officer meets all of the following conditions:
- (1) Resides in this Commonwealth.
 - (2) Is a retired law enforcement officer and prior to each annual qualification, completes a Pennsylvania Retired Officer Concealed Carry Acknowledgement, on a form prescribed by the Commission, attesting to all of the following, subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and meets the following conditions:
 - (i) Prior to retirement, the applicant was employed as a law enforcement officer for an aggregate of 15 years or more or retired from service with a public agency after

completing any applicable probationary period of service, due to a service-connected disability, as determined by the public agency.

(ii) The applicant intends to fire and carry a revolver, semiautomatic or automatic weapon.

(iii) The applicant is a retired law enforcement officer.

(iv) The applicant retired in good standing, specifying the public agency, city and state from which the applicant retired.

(v) The applicant did not retire for reasons of mental instability.

(vi) The applicant is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(vii) The applicant will not carry a firearm while under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(viii) The applicant is not prohibited by Federal or State law from receiving or possessing a firearm.

(ix) The applicant understands and acknowledges that the definition of a firearm does not include any machine gun, firearms silencer, destructive device or prohibited offensive weapon.

(x) The applicant understands and acknowledges that the person shall meet the Commonwealth's standards for training and qualification for active law enforcement officers to carry a firearm of the same type as the applicant's concealed weapon.

(xi) The applicant understands and acknowledges that when carrying the concealed weapon, the applicant shall carry Pennsylvania's qualification card, along with the identification card issued under § 221.23 or identification issued by another public agency satisfying the requirements of 18 U.S.C. § 926C(d) (relating to carrying of concealed firearms by qualified retired law enforcement officers).

(xii) The applicant understands and acknowledges that the qualification card expires 12 months from the date of issue and it is the applicant's responsibility to reapply if the applicant wants to continue to carry the weapon under the act and this chapter.

(xiii) The applicant understands and acknowledges that this authorization applies only to the type of weapon with which the applicant qualified.

(xiv) The applicant understands and acknowledges that Pennsylvania's certification does not give him any right whatsoever to exercise law enforcement authority or take police action under any circumstances.

(xv) The applicant understands and acknowledges that a background investigation is required and authorizes one to be conducted to determine if the applicant has been convicted of any criminal offenses or has any mental health issues that would disqualify the applicant from possessing a concealed weapon.

(xvi) The applicant has not been charged with nor convicted of any felony or misdemeanor in this Commonwealth or any similar offenses under any other State or Federal law that would prohibit the applicant from possessing a firearm.

§ 221.32. Qualification card contents.

(a) A qualification card shall be issued to indicate compliance with the Commonwealth's standards for training and qualification for active law enforcement officers to

carry a firearm. The qualification cards must be uniform throughout this Commonwealth and on a form issued by the Commission.

(b) The qualification card must contain the following:

(1) The caption "Retired Law Enforcement Officer Qualification Card."

(2) The name, address, date of birth, race, sex, height, weight, color of hair, color of eyes and signature of the retired law enforcement officer.

(3) The date of completion of the most recent firearms training and qualification by the retired law enforcement officer.

(4) An expiration date 12 months later than the date of completion of the most recent firearms training and qualification by the retired law enforcement officer.

(5) The name and signature of the certified law enforcement firearms instructor issuing the qualification card.

(6) The name and signature of a sheriff.

(7) A confirmation number provided by the sheriff who signed the qualification card.

(8) A statement that the retired law enforcement officer has a duty to surrender the qualification card when the officer becomes legally ineligible either under Federal or State law to receive, possess, use, manufacture, control, sell or transfer a firearm.

§ 221.33. Qualification card issuance.

(a) A retired law enforcement officer shall produce the identification card issued under § 221.23 (relating to identification card issuance) or identification issued by another public agency satisfying the requirements of 18 U.S.C. § 926C(d) (relating to carrying of concealed firearms by qualified retired law enforcement officers) along with another form of official/governmental identification, which includes a photograph of the officer, to the certified law enforcement firearm instructor prior to participating in firearms training and qualification.

(b) A retired law enforcement officer may not participate in firearms training and qualification if the certified law enforcement firearm instructor determines that the officer presents a safety hazard to himself or others on the range or if the officer is not able to produce the two forms of identification required in subsection (a).

(c) A retired law enforcement officer shall meet the firearms standards established by the public agency from which the law enforcement officer retired or the guidelines established by the Commission to carry a firearm of the same type as the concealed firearm that the officer intends to carry. As part of firearms training, the certified law enforcement firearm instructor shall provide instruction on the use of force by a civilian under 18 Pa.C.S. Chapter 5 (relating to general principles of justification).

(d) The certified law enforcement firearms instructor may issue a qualification card to a retired law enforcement officer who has met the Commonwealth's standards for training and qualification for active law enforcement officers to carry a firearm.

(e) The certified law enforcement firearm instructor shall obtain the qualification cards, for a fee of \$2 for each card, from the Commission.

(f) For 1 year, the certified law enforcement firearms instructor shall keep a record of each qualification card issued, including the following:

(1) The name of the retired law enforcement officer to whom the qualification card was issued.

(2) The make and model of the weapons the retired law enforcement officer qualified on.

(3) The type of ammunition utilized by the retired law enforcement officer.

(4) The course of fire completed by the retired law enforcement officer.

(5) The date of qualification.

(g) Within 30 days of a retired law enforcement officer being issued a qualification card, the certified law enforcement firearm instructor shall provide the Commission with a copy of the record maintained under subsection (f) on a form prescribed by the Commission.

(h) The following apply to sheriffs:

(1) Prior to signing the qualification card, in addition to other requirements in section 5 of the act (53 P. S. § 753.5), the sheriff shall require the retired law enforcement officer to display the identification card and another form of official/governmental identification, which includes a photo of the retired law enforcement officer. The sheriff shall make a photocopy of both forms of identification.

(2) For 1 year, the sheriff shall keep a record of the following:

(i) Each qualification card signed.

(ii) The name and address of the retired law enforcement officer appearing on the card.

(iii) The date the sheriff signed the card.

(3) The sheriff shall confiscate the qualification card from any retired law enforcement officer who is not issued a unique approval number. Confiscated qualification cards shall be returned to the Commission.

(4) The sheriff shall collect the expired qualification card from the retired law enforcement officer and return the card to the Commission.

(5) Within 30 days of signing a qualification card, the sheriff shall provide the Commission with a copy of the record maintained under paragraph (2) on a form prescribed by the Commission.

(i) No public agency shall have any duty to provide firearms training and qualification to retired law enforcement officers or to issue qualification cards.

§ 221.34. Replacement; error or change in material information.

(a) *Replacement.* If a qualification card is lost, stolen, destroyed, mutilated or becomes illegible, the retired law enforcement officer may obtain a replacement qualification card upon request to the certified law enforcement firearm instructor and payment of the required fee.

(b) *Error or change in information.* If any information on a qualification card has changed, or is in error, from the information originally set forth, the retired law enforcement officer shall apply to the public agency, and submit the required fee, for a new qualification card within 15 days of the change or discovery of the error. A fee will not be charged if the public agency caused the error to occur.

§ 221.35. Challenge to issuance of qualification card.

The Commission will have standing to contest issuance of any identification card subject to §§ 203.101—203.103 (relating to notice and hearings).

[Pa.B. Doc. No. 09-1679. Filed for public inspection September 11, 2009, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Fees

The State Board of Pharmacy (Board) amends § 27.91 (relating to schedule of fees) to read as set forth in Annex A.

Description and Need for the Rulemaking

Section 8.2(a) of the Pharmacy Act (act) (63 P. S. § 390-8.2(a)) requires the Board to fix the fees, including renewal of licenses and permits, by regulation and if the revenue generated by fees, fines and civil penalties is not sufficient to match expenditures over a 2-year period, the Board is required to increase those fees by regulation. Section 8.2(b) of the act requires the Board to increase fees when revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures.

In March, 2008, the Department of State's division of fiscal management projected that, without an increase in the biennial renewal fee, Board fiscal deficits will grow as follows:

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2007-08	\$1,317,335	\$500,000	\$1,842,000	(\$24,665)
2008-09	(\$24,665)	\$3,000,000	\$1,934,000	\$1,041,335
2009-10	\$1,041,335	\$500,000	\$2,031,000	(\$489,665)
2010-11	(\$489,665)	\$3,000,000	\$2,133,000	\$377,335
2011-12	\$377,335	\$500,000	\$2,240,000	(\$1,362,665)
2012-13	(\$1,362,665)	\$3,000,000	\$2,352,000	(\$714,665)
2013-14	(\$714,665)	\$500,000	\$2,470,000	(\$2,684,665)

If, however, the renewal fee for pharmacies is increased from \$100 to \$125 beginning with the 2009-2011 renewal period and the renewal fee for pharmacists is increased from \$150 to \$190 beginning with the 2010-2012 renewal period, the fiscal management division projected that the Board would recover the deficit as follows:

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2007-08	\$1,317,335	\$500,000	\$1,842,000	(\$24,665)
2008-09	(\$24,665)	\$3,000,000	\$1,934,000	\$1,041,335
2009-10	\$1,041,335	\$582,000	\$2,031,000	(\$407,665)
2010-11	(\$726,926)	\$3,866,000	\$2,133,000	\$1,325,335
2011-12	\$1,325,335	\$582,000	\$2,240,000	(\$332,665)
2012-13	(\$332,665)	\$3,866,000	\$2,352,000	\$1,181,335
2013-14	\$1,181,335	\$582,000	\$2,470,000	(\$706,655)

Although the Board was presented with projections for other amounts of increase in the renewal fee, the Board concluded that increasing the biennial renewal fee approximately 25% as shown previously would be the least restrictive means of eliminating the projected deficits and restoring the Board's fiscal integrity as required under section 8.2 of the act.

As part of this process, the Board also considered the application fees that it charges. In general, the fee should be enough to cover the cost of providing that service. Based upon estimates of the amount of staff time necessary to process various applications and the cost of employing staff, together with necessary overhead, and rounding to the nearest \$5, the fiscal management division recommended that the Board increase application fees as follows: pharmacy intern certificate from \$30 to \$35, pharmacist license from \$40 to \$45, new pharmacy permit from \$100 to \$125, reinspection of new pharmacy after failure of inspection from \$90 to \$115, pharmacy permit change without inspection from \$30 to \$45 and pharmacy permit change with inspection from \$95 to \$125. Because the Board should charge application fees sufficient to recover the cost of providing the services, the Board proposed to increase its application fees as recommended.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a notice of proposed rulemaking at 38 Pa.B. 4784 (August 30, 2008) with a 30-day public comment period. The Board received no written comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) as part of its review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the Independent Regulatory Review Commission (IRRC).

The HPLC first noted that the Board did not propose to increase certain other application fees and requested the Board's rationale in increasing only the identified fees. While the fiscal management division looked at these fees as well, its analysis showed that the cost of providing those services was being recovered by the current fees. Therefore, the Board did not propose to increase those fees.

The HPLC also requested information pertaining to the major cost centers of the Board and any significant increases in their expenditures. According to the division of fiscal management, as of March, 2009, the Board's actual expenses for various cost centers have been as follows:

<i>Category</i>	<i>FY 2004-05 (actual)</i>	<i>FY 2005-06 (actual)</i>	<i>FY 2006-07 (actual)</i>	<i>FY 2007-08 (projected)</i>	<i>FY 2008-09 (budgeted)</i>
Bd. Admin.	294,282.75	240,641.66	412,292.42	420,468.05	441,000
Cmmsnr. Office	25,252.94	28,724.80	30,885.29	35,979.55	37,000
Dept. Services	77,269.68	79,087.31	73,247.57	74,475.09	95,000
Legal Office	338,508.09	315,962.44	315,713.63	288,239.01	333,000
Hearing Exp.	18,478.61	19,968.82	19,192.75	24,687.31	21,000
Leg./Reg. Anal.	4,346.87	7,360.86	6,830.66	8,098.10	11,000
Enf. & Invest.	643,654.07	571,909.98	647,126.85	765,942.00	723,000
PHMP	102,919.51	137,929.05	150,936.27	155,450.98	164,000
Bd. Members	28,172.42	33,145.54	27,503.47	34,318.34	64,000
Total Costs	\$1,532,884.94	\$1,434,730.46	\$1,683,728.91	\$1,807,640.43	\$1,889,000

As noted in the preamble for publication as proposed rulemaking, the increases in the Board's biennial expenses occurred primarily in administrative costs and costs for inspection, investigation and enforcement (Bureau of Enforcement and Investigation). Legal office costs remained about the same, despite the continued rise in the number of complaints from previous years. Administrative costs likely increased because the Board began receiving applications for the authority to administer injectable medications, immunizations and biologicals. Additionally, vacant pharmacy inspector positions were filled, which led to the increase in inspection, investigation and enforcement costs, both due to salaries and increased number of inspections.

In November, 2008, the fiscal management division provided updated projections, based upon the anticipated increase in fees and actual expenses and revenue, that would permit the Board to recover the deficit as follows:

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2006-07	(\$81,593)	\$3,035,094	\$1,683,729	\$1,269,772
2007-08	\$1,269,772	\$658,963	\$1,807,640	\$121,095
2008-09	\$121,095	\$3,866,000	\$1,889,000	\$2,098,095
2009-10	\$2,098,095	\$582,000	\$1,946,000	\$734,095
2010-11	\$734,095	\$3,866,000	\$2,004,000	\$2,596,095
2011-12	\$2,596,095	\$582,000	\$2,064,000	\$1,114,095

The Board has not found a need to revise its rulemaking in response to the comments.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. The final-form rulemaking will increase certain application fees charged by the Board and will increase the biennial renewal fee for pharmacists and pharmacies in this Commonwealth.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The increased renewal fee for pharmacies will first be charged for the biennial renewal period beginning September 1, 2009, and the increased renewal fee for pharmacists will first be charged for the biennial renewal period beginning October 1, 2010.

Statutory Authority

The final-form rulemaking is authorized under section 8.2 of the act.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 4784, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 7, 2009, the HPLC approved the final-form rulemaking. On August 5, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective August 5, 2009.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to the Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7156, st-pharmacy@state.pa.us.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968

(P. L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered.

(3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended, by amending § 27.91 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL A. PODGURSKI, R. Ph.,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 5096 (August 22, 2009).)

Fiscal Note: Fiscal Note 16A-5422 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY FEES

§ 27.91. Schedule of fees.

An applicant for a license, certificate, permit or service shall pay the following fees at the time of application:

Application for pharmacy intern certificate	\$35
Application for pharmacist license	\$45
Certification of examination scores or internship hours	\$25
Verification of licensure	\$15
Assistant pharmacist biennial renewal	\$120
Registered pharmacist biennial renewal	\$190
Registered pharmacist late renewal penalty	\$25
New pharmacy permit application	\$125

Reinspection of new pharmacy after failure at first inspection	\$115
Pharmacy permit change without inspection	\$45
Pharmacy permit change when inspection required.....	\$125
Change in pharmacy ownership or Board of Directors	\$30
Verification of permit	\$15
Biennial renewal of pharmacy permit	\$125
Pharmacy permit late renewal penalty	\$25
Application for approval to administer injectables..	\$30
Biennial renewal of approval to administer injectables.....	\$30

[Pa.B. Doc. No. 09-1680. Filed for public inspection September 11, 2009, 9:00 a.m.]

STATE BOARD OF PHARMACY [49 PA. CODE CH. 27]

Sales of Hypodermic Needles and Syringes

The State Board of Pharmacy (Board) adopts amendments to § 27.18 (relating to standards of practice) to read as set forth in Annex A. The rulemaking alters the requirements regarding the sale of hypodermic needles and syringes in pharmacies.

Notice of proposed rulemaking was published at 37 Pa.B. 4652 (August 25, 2007). Publication was followed by a 30-day public comment period. The Board received comments from the National Association of Social Workers, the Pennsylvanians for the Deregulation of Syringe Sales, the Pennsylvania Medical Society (PMS), Allegheny General Hospital, Pittsburgh AIDS Task Force (PATF), Prevention Point Pittsburgh, Southwestern Pennsylvania AIDS Planning Coalition (SWPAPC), Montefiore Medical Center, the AIDS Law Project of Pennsylvania, Representative Babette Josephs, Valley Forge Medical Center & Hospital, the University of Pittsburgh Program for Health Care to Underserved Populations, the Student Global AIDS Project of the University of Pittsburgh, the American Civil Liberties Union of Pennsylvania, Reading Risk Reduction, the American Liver Foundation, the Pennsylvania Pharmacists Association and many individual commentators. The House Professional Licensure Committee (HPLC) submitted four comments to the proposed rulemaking on October 3, 2007. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted two comments to the proposed rulemaking on October 24, 2007.

Summary of Comments and Responses to Proposed Rulemaking

Age Requirement

IRRC and several other commentators questioned the need for the provision in the proposed amendment that prohibited the sale of needles and syringes to persons under the age of 18 without a prescription. Upon review of the comments, the Board has reconsidered this provision and removed it in the final-form rulemaking. While some commentators wrote to support the age limitation, the Board ultimately decided that the limitation served no compelling public health interest.

Limitation on Number of Syringes and Needles Dispensed

PATF, Prevention Point Pittsburgh, SWPAPC and other individual commentators wrote to encourage the Board to consider removing the restriction on the number of syringes that can be purchased at one time. HPLC questioned the provision in the proposed rulemaking that placed a limit of 30 on the number of syringes that could be dispensed without a prescription. HPLC noted that other states have limits of ten syringes and needles. The Board initially chose 30, as it believed that ten was too few to dispense at one time. However upon reading the comments, the Board decided to remove the limitation altogether bringing the regulation in line with the majority of states that have no limit on the number of syringes dispensed without a prescription. HPLC also asked for information about whether the 30-syringe limitation would be for a specified time period. Having chosen to remove this limitation, the question was moot.

Recordkeeping

HPLC also questioned what type of recordkeeping would be used to track the number of syringes dispensed to individuals. The Board is not imposing a recordkeeping requirement. The Board does not believe that maintaining a record and requiring individuals to provide a name or other identifying information would advance the public health and safety. In fact, such a requirement could act to deter individuals from purchasing needles and syringes in a pharmacy.

Supervision

HPLC commented that the proposed rulemaking required direct supervision by a pharmacist while the Board's regulation in § 27.12(b)(2) (relating to practice of pharmacy and delegation of duties) requires direct, immediate and personal supervision. HPLC requested clarification of the two different standards. The Board meant to have the same standard as is used for all auxiliary personnel and has changed the language in the final-form rulemaking package to require direct, immediate and personal supervision by a pharmacist.

Insurance Coverage

PMS suggested a study to determine whether insurers should be mandated to preserve reimbursement for diabetics and people with other medical conditions requiring injected medications. IRRC urged the Board to work with necessary authorities to ensure that this rulemaking does not have a negative fiscal impact on people who obtain needles and syringes with a prescription and the assistance of medical insurance. The Board does not have the resources or funds to conduct such a study; moreover, the Board does not regulate or mandate insurance coverage for any prescription items. However, the Board notes that insulin is not a prescription item but is still generally covered by medical insurance.

Miscellaneous

PMS expressed concern regarding the proposed amendment and stated that it could not support the amendment until several qualifications were studied. The first qualification that PMS noted was that the proposed amendment not act to increase the number of IV drug users. As stated in the preamble to the proposal, several studies clearly indicate no increase in the number of IV drug users following the adoption of similar regulations in other states. No further studies have been published since the proposed amendment. Therefore the Board is confident that the change in this amendment will not act to do so in this Commonwealth. PMS next noted that syringe

exchange programs should be bolstered to encourage intravenous drug users to become drug free. The Board supports the premise of recovery and rehabilitation for anyone addicted to any kind of drug, however, the Board notes that it does not have purview over syringe exchange programs. PMS next noted that pharmacies should be required to provide materials that educate illicit drug users about the associated risks and encourage drug use withdrawal, and education resources are made available throughout the State. The Board considered this idea when drafting the proposed amendment but chose not to put in a regulatory requirement. Instead, the Board is working with the Department of Health to make available to pharmacies pamphlets on topics such as addiction, HIV/AIDS and cocaine. Information about how to obtain these materials will be available on the Board's web site upon final-form rulemaking. The next qualification PMS noted was that syringes should be kept in the prescription area of the pharmacy. The proposed rulemaking required that needles and syringes be kept in the prescription area and that requirement has not changed in the final-form rulemaking.

PMS next noted that drug paraphernalia laws should be reviewed and changed to accommodate the proposal. The Board believes that no change in the laws pertaining to drug paraphernalia is necessary to implement the regulation. Needles and syringes are not, per se, drug paraphernalia. Drug paraphernalia is defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) (Drug Act), in pertinent part, as, "all equipment, products and materials of any kind which are used, intended for use or designed for use in . . . injection . . . or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to . . . (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body." Determination of whether an object is drug paraphernalia depends on the intent of the person distributing the object. To be classified as drug paraphernalia, the distributor must have the specific intent that the item be used with controlled substances. *Commonwealth v. Lacey*, 344 Pa. Super. 576, 582, 496 A.2d 1256 (1985). "The [Drug] Act includes a specific intent requirement to distinguish innocent transfers of multi-purpose items from illegal transfers of drug paraphernalia." *Id.* Specific intent means that it is not just foreseeable that the material will be used to inject controlled substances in violation of the Drug Act, but that is the purpose, object, plan, or goal of the person distributing the needle or syringe. Needles and syringes have many lawful uses including injecting insulin, allergy serums, fertility drugs, blood thinners, migraine medications, epinephrine, lawfully prescribed steroids, vitamins and other additives in total parenteral nutrition, and use in home IV therapy. It can be argued that the specific intent of a pharmacist is to distribute syringes to use in conformity with law. Pharmacists cannot be held to reasonably know or believe that anyone purchasing needles and syringes without a prescription is using them to inject controlled substances. PMS also noted that the age limit and number of syringes should be eliminated as restrictions. The Board agrees and has amended the final-form rulemaking to eliminate those restrictions. Finally, PMS stated that more information be gathered from other states where needles and syringes are available over the counter regarding how they address the previously-mentioned issues and their results. The Board has been monitoring this topic going back to 2002. Since the Board first undertook the proposed package, the

Commonwealth is now one of only three states to still have a prescription requirement. The first states to remove this requirement did so back in the 1990s. The Board has gathered volumes of information about the efficacy of removing the requirement of a prescription to obtain needles and syringes in a pharmacy and is confident that it is prepared to address any issues that may arise with the amendment of the Board's regulations.

Several commentators wrote solely to express their support of the proposed amendment. These commentators included medical practitioners and educators. The Board thanks these commentators for their time and efforts in supporting this important amendment.

Statutory Authority

The amendment is authorized under sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act (act) (63 P.S. §§ 390-4(j) and 390-6(k)(1) and (9)).

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no fiscal impact on the Board or the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 4652, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 23, 2009, the final-form rulemaking was approved by the HPLC. On July 22, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 23, 2009, and approved the final-form rulemaking.

Additional Information

Individuals who need information about the rulemaking may contact Melanie Zimmerman, R.Ph., Executive Secretary, State Board of Pharmacy, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

- (1) Public notice of intention to adopt an amendment in § 27.18, was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated under those sections in 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) This final-form rulemaking of the Board is necessary and appropriate for the administration of the act.

(4) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed amendment published at 37 Pa.B. 4652.

Order

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending § 27.18 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Board shall submit this order and a copy of Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL A. PODGURSKI, R. Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4832 (August 8, 2009).)

Fiscal Note: Fiscal Note 16A-5418 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY STANDARDS

§ 27.18. Standards of practice.

* * * * *

(s) Sales of hypodermic needles and syringes shall be made by a pharmacist or under the direct, immediate and personal supervision of a pharmacist in accordance with the following:

(1) Hypodermic needles and syringes may be sold without a prescription.

(2) Hypodermic needles and syringes shall be kept in the prescription area of the pharmacy, as defined in § 27.1 (relating to definitions), and be accessible only by pharmacists and pharmacy personnel authorized to be in the prescription area of the pharmacy while the pharmacy is open.

* * * * *

[Pa.B. Doc. No. 09-1681. Filed for public inspection September 11, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

CANINE HEALTH BOARD

[7 PA. CODE CHS. 28 AND 28a]

Canine Health Board Standards for Commercial Kennels

The Canine Health Board (Board), created under section 221 of the Dog Law (3 P. S. § 459-221) (act), through the Department of Agriculture (Department), as set forth under section 221(g) of the act, proposes to create Chapter 28a (relating to canine health board standards for commercial kennels). Section 221(f) of the act charges the Board with the duty to determine standards to provide for the health and well being of dogs in the specific areas of ventilation, lighting and floors in commercial kennels. The Board was required to and did issue temporary guidelines published at 39 Pa.B. 310 (January 17, 2009), which are to be promulgated as regulations by the Department as set forth in section 221(g) of the act. The Board proposes to create specific standards that will protect the health and well being of dogs in commercial kennels (Class C kennels).

Background

The proposed regulations are required under sections 207(h)(6), (7) and (8), (i)(3) and 221 of the act (3 P. S. §§ 459-207(h)(6), (7) and (8), (i)(3) and 459-221). The intent of the regulations is to create ventilation, lighting and additional flooring standards that will protect the health and well being of dogs housed in Class C kennels. These provisions are necessary as the act created the Board and directed it to address these limited issues.

The major features of the proposed regulations are summarized as follows:

Summary of Major Features

Section 28a.1. Definitions.

This section defines various terms utilized in the body of the regulations to further clarify the regulations.

Section 28a.2. Ventilation.

Standards are established to satisfy the directive of section 207(h)(6) and (7) of the act regarding ventilation. Specifically, the proposed regulation addresses poor ventilation conditions that cause health and welfare problems in dogs, by establishing specific ventilation standards that must be met to ensure that these health and welfare problems do not develop. The specifics include that ventilation must be achieved through a mechanical system that will allow for 8–20 air changes an hour, keep consistent moderate humidity, institute auxiliary ventilation when the temperature rises above 85° F, keep ammonia levels and particulate matter at established levels and keep odor minimized as it is a sign of disease and bacteria growth.

Section 28a.3. Lighting.

The proposed regulation delineates lighting standards of both natural and artificial light in accordance with the Board's duty and requirements set forth in section 207(h)(8) of the act.

Section 28a.4. Flooring.

The Board through this proposed regulation has approved solid flooring to be appropriate for use in Class C kennels as well as the flooring already approved in the

legislation in accordance with section 207(i)(3) of the act. The proposed regulation establishes the standards to be met if solid flooring is utilized.

Fiscal Impact

Commonwealth

The proposed regulation, once published as final-form regulations, would impose additional fiscal impacts upon the Department's Bureau of Dog Law Enforcement (Bureau). Once the final regulations are in place, additional fiscal impacts will be imposed. Those costs will be paid for entirely from the Dog Law Restricted Account. No general fund money will be used. The Department, in the Regulatory Analysis Form that accompanies the proposed regulation, has set forth an estimate of costs to the Bureau to enact and enforce the new regulatory standards that would be imposed by the final regulations.

Political Subdivisions

The addition of mechanical ventilation, additional artificial or natural lighting and flooring changes may require UCC permit and inspections. This should not specifically increase or decrease costs to local governments, however. Documentation from the Center for Local Government Services, Department of Community and Economic Development (DCED), confirms that municipalities are collecting fees to cover the expenses of Pennsylvania Uniform Construction Code (UCC) administration and enforcement, so that these proposed regulations will not have a fiscal impact on municipalities. Any additional workload generated by the regulation would be offset by the fees collected in association with the specific permit.

The enforcement of the regulations will neither increase nor decrease any costs to local governments. Compliance with the ventilation, lighting and additional flooring standards required of Class C kennels standards will be enforced solely by the Department. Local governments will have no role in enforcement or any other area associated with the regulations in the Commonwealth.

Most municipalities do not have commercial kennels. Nearly all are in 10 of the 67 counties—more than half are in Lancaster County. Commercial kennels represent about 15% of the total number of kennels regulated by the Department.

Private Sector

The regulations once published as final-form regulations will impose additional costs, at least for initial compliance, on the regulated community (Class C kennels). Class C kennels will likely have to make changes (some significant depending on the current state of their kennel operation) to comply with the ventilation and lighting provisions of the regulation. The flooring provisions of the regulation actually expand the type of flooring allowed under the act, in section 207(i)(3) and do not impose any new requirement. The costs to the regulated community will be varied, depending on the size and condition of the existing kennel. The Department has provided an estimate of costs to existing Class C kennels for compliance with the new standards in the Regulatory Analysis Form that accompanies these proposed regulations.

General Public

The regulations, once promulgated as final-form regulations, may raise the cost of purchasing a dog and

therefore may affect purchasers of dogs. However, the general public will benefit from the implementation of the standards in the regulations, as the standards are intended, as were the amendments to the Dog Law that precipitated the regulations, to improve the health and welfare of the dogs and puppies that are sold to the general public. There are no mandatory requirements imposed on the general public by the regulation.

Paperwork Requirements

The Department will not have to develop a large array of new application forms or review procedures, but in some cases may want to amend current forms. The Department will have to develop forms related to ventilation calculations.

Effective Date

The proposed rulemaking will be effective 90 days after publication in the *Pennsylvania Bulletin* as final-form rulemaking.

Sunset Date

There is no sunset date for the regulations. The Department will review the efficacy of this regulations on an ongoing basis.

Public Comment Period

Interested persons are invited to submit written comments regarding the proposed regulations within 45 days following publication in the *Pennsylvania Bulletin*. These comments are public documents that will be posted on the Independent Regulatory Review Commission (IRRC) web site. The comments may be mailed to the Canine Health Board, c/o Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Room 102, Harrisburg, PA 17110. The Bureau will forward the comments to the Board.

Regulatory Review

The Department submitted a copy of the proposed regulations to Independent Regulatory Review Act (IRRC) and to the House and Senate Standing Committees (Committees) on Agriculture and Rural Affairs on September 1, 2009, in accordance with section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)). The Department also provided IRRC and the Committees with a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has an objection to any portion of the proposed regulations, it must so notify the Department within 30 days of the close of the public comment period.

The notification must specify the regulatory criteria that have not been met by that portion. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to the final publication of the proposed regulation.

DENNIS C WOLFF,
Secretary

(Editor's Note: Effective _____ (The blank refers to a date 90 days after the publication of the final-form rulemaking in the Pennsylvania Bulletin, §§ 28.1—28.3 will be rescinded and deleted from the Pennsylvania Code.)

Fiscal Note: 2-170. (1) General Fund; (2) Implementing Year 2009-10 is \$94,775; (3) 1st Succeeding Year 2010-11 is \$675; 2nd Succeeding Year 2011-12 is \$675; 3rd

Succeeding Year 2012-13 is \$675; 4th Succeeding Year 2013-14 is \$675; 5th Succeeding Year 2014-15 is \$675; (4) 2008-09 Program—\$0; 2007-08 Program—\$0; 2006-07 Program—\$0; (7) Dog Law Restricted Account; (8) recommends adoption.

Annex A

TITLE 7. DEPARTMENT OF AGRICULTURE PART II. DOG LAW ENFORCEMENT BUREAU

CHAPTER 28. (Reserved)

§§ 28.1—28.3. (Reserved).

CHAPTER 28a. CANINE HEALTH BOARD STANDARDS FOR COMMERCIAL KENNELS GENERAL PROVISIONS

Sec.	
28a.1.	Definitions.
28a.2.	Ventilation.
28a.3.	Lighting.
28a.4.	Flooring.

§ 28a.1. Definitions.

The following words and terms, when used in this chapter have the following meanings, unless the context clearly indicated otherwise.

ANSI/U.L. Standard 2034 and IAS 6-96—Independent laboratory testing standards for carbon monoxide detectors.

Excessive light—Direct, undiffused light, from either the sun or a lighting fixture placed in a manner that the light is shining directly into a primary enclosure of a dog.

Mechanical ventilation—Ventilation produced by operation of a machine. So long as its operation results in compliance with the standards established in this chapter, a mechanical ventilation system may range from very basic, such as an exhaust fan, to more sophisticated systems such as a HVAC system with temperature and humidity controls.

Primary enclosure—

(i) The primary structure that restricts a dog's ability to move in a limited amount of space, such as a room, cage or compartment.

(ii) The term does not include a run described in section 207(i)(6) of the act (3 P. S. § 459-207(i)(6)).

§ 28a.2. Ventilation.

Proper ventilation helps ensure that dogs are healthy and not stressed. Each area of the kennel where dogs are present must utilize a functional, mechanical ventilation system that provides ventilation to satisfy the requirements of this section. The following standards shall be met at all times that a dog is present in the facility:

(1) When the ambient air temperature is 85° F, a form of mechanical ventilation capable of reducing air temperature shall be utilized to reduce air temperature where dogs are present. If the ambient air temperature in any portion of the facility is 86° F or higher, despite mechanical ventilation utilized, dogs may not be present in those portions of the facility. This paragraph does not apply to outdoor exercise areas.

(2) When the temperature is 50—75° F, the relative humidity shall be in the range of 40—60%. The relative humidity shall be measured at standing shoulder level of 10% of the dogs in the kennel, randomly selected from all rooms. Relative humidity may not be measured in a primary enclosure within 30 minutes of the completion of active cleaning of that primary enclosure.

(3) When the temperature is above 75° F, the relative humidity shall be 1%—50%. The relative humidity shall be measured at standing shoulder level of 10% of the dogs in the kennel, randomly selected from all rooms. Relative humidity may not be measured in a primary enclosure within 30 minutes of the completion of active cleaning of that primary enclosure.

(4) Ammonia levels must be less than 10 ppm. The ammonia level shall be measured at shoulder level of dogs housed in the primary enclosure of 10% of the dogs in the kennel at standing shoulder height, randomly selected from all rooms, as well as on the floor of the four corners of the housing facility and at least one location on the floor along each wall of the facility. Ammonia in a primary enclosure may not be measured within 30 minutes of the completion of active cleaning of that primary enclosure.

(5) The means of ventilation employed must ensure that carbon monoxide (CO) levels are maintained below detectable levels in all areas of the kennel. Kennels shall install and maintain CO detectors with the ability to monitor the CO level throughout the entire facility. The detectors must meet or exceed the UL standard 2034 or the IAS 6-96 standard, or its successor standards.

(6) In the event of a mechanical system malfunction, the kennel must have windows, doors, skylights, or other openings in the structure that are operable to maintain ventilation. In the event of a mechanical system malfunction, the kennel shall contact the Bureau of Dog Law and consult on the steps to be taken to protect the health and well being of the dogs and take steps to correct the malfunction immediately.

(7) The means of ventilation employed must ensure that particulate matter (PM) from dander, hair, food, bodily fluids, and other sources in a primary enclosure are below 10 milligrams per meter cubed. The PM shall be measured at shoulder level of dogs housed in the primary enclosure of 10% of the dogs in the kennel. The PM may not be measured within 30 minutes of the completion of active cleaning of that primary enclosure.

(8) The following requirements apply to air changes:

(i) The kennel shall provide between 8—20 air changes of 100% fresh air per hour in each room of the facility that houses dogs.

(A) The air changes shall be calculated using the following information supplied by the kennel to the Department:

- (I) The volume of the facility.
- (II) The linear dimensions of the facility.
- (III) The number of primary enclosures.
- (IV) The cubic feet occupied by each primary enclosure.
- (V) The dimensions of all intake or exhaust vents of any fans as well as their capacity, or other system specifications.

(B) The information shall be submitted to the Department by _____. (*Editor's Note:* The blank refers to a date after the regulations are published as final-form rule-making in the *Pennsylvania Bulletin*.) and within 90 days of any change to the volume of the facility, the linear dimensions of the facility, the number of primary enclosures, or the dimensions of the opening and exhaust vents of any fans. The information submitted to the Department shall be kept as part of the kennel's records.

(ii) Air velocity measurements will be taken at all intake vents or exhaust vents and at shoulder level of dogs housed in the primary enclosure for 10% of the dogs in the kennel randomly selected from each room.

(iii) The kennel owner shall be in violation if one or more of the following apply:

(A) The computed air change rate based on the data submitted under subparagraph (i) is not 8—20 air changes per hour.

(B) If the air change rate as measured at the vents is not 8—20 air changes per hour, and there is a simultaneous noncompliance with any of the requirements in paragraphs (1)—(7), (9)—(12) or this paragraph.

(C) If the measured velocity reading at standing dog shoulder height does not result in a computation of 8—20 air changes in the primary enclosure and the air change in subparagraph (i) is satisfactory violation will not be issued unless there is a simultaneous noncompliance with any of the requirements in paragraphs (1)—(7), (9)—(12) or this paragraph.

(iv) If a computation or measurement under subparagraph (iii) is not satisfactory, the kennel owner shall take the necessary steps to meet the requirements.

(v) The Department may hire or consult with an engineer to recommend improvements be made to kennels to meet compliance with this paragraph.

(9) Dogs may not exhibit conditions or signs of illness or stress associated with poor ventilation, including the following:

- (i) Excessive panting.
- (ii) Elevated body temperature.
- (iii) Active avoidance of areas of the kennel.
- (iv) Shivering.
- (v) Huddling of dogs 12 weeks of age or older.
- (vi) Mucous dripping from the nose of a dog.
- (vii) Redness or crusting of eyes or nose.
- (viii) Runny eyes.
- (ix) Blindness.
- (x) Coughing or sneezing.
- (xi) Moist areas of hair.
- (xii) Diarrhea.
- (xiii) Bloody diarrhea.
- (xiv) Vomiting.
- (xv) Listlessness.
- (xvi) Presence of blood.
- (xvii) Death.

(10) The air in the facility may not have excessive dog odor, other noxious odors, stale air, moisture condensation on surfaces, or lack of air flow.

(11) When employing mechanical means of ventilation and recirculating air, the air shall be filtered with small particle, nonozone producing air filters.

(12) All ventilation systems must comply with the latest edition of applicable codes.

§ 28a.3. Lighting.

Natural lighting is important to the development of dogs. Each kennel shall have a mix of natural and artificial light, provided in the following manners:

(1) *Natural light.*

(i) Each dog shall have exposure to light from natural sources passing through external windows, external sky lights or other external openings.

(ii) The minimum combined total of net glazed area of external windows, external sky lights or area of other external openings through which natural light passes within each room where dogs are housed may not be less than 8% of the floor space. All external windows, external skylights and external openings must be transparent and unobstructed to satisfy this section.

(iii) Dogs shall be protected from excessive light.

(iv) Outdoor exercise areas shall provide an area of shade large enough to protect all the dogs utilizing the exercise area from the direct rays of the sun.

(v) If a kennel is granted a waiver for indoor exercise under section 207(i)(6)(x)(B) of the act (3 P.S. § 459-207(i)(6)(x)(B)), the primary enclosure must be configured to allow natural light to come into each primary enclosure.

(vi) If a kennel is granted a waiver for indoor exercise under section 207(i)(6)(x)(B) of the act (3 P.S. § 459-207(i)(6)(x)(B)), full spectrum lighting shall be provided for the entirety of the daytime cycles in areas that house dogs.

(2) *Artificial light.*

(i) Artificial, indoor, daytime lighting must provide full spectrum lighting between 50—80 foot candles at standing shoulder level of the dogs for daytime lighting.

(ii) Night time artificial lighting must be 1—5 foot candles at standing shoulder level of the dogs of lighting.

(iii) Artificial lighting provided must approximately coincide with the natural diurnal cycle.

(iv) Lighting sources may not have a visible flicker.

(v) Light sources, whether their primary purpose is to provide heat or light, shall be provided in a manner that prevents dogs from touching a light, fixture, bulb, switch or cord.

(3) *Applicable codes.* All lighting must comply with the latest edition of applicable codes.

§ 28a.4. Flooring.

Proper flooring is essential for normal behavior and proper orthopedic development of the dogs. For dogs over 12 weeks of age, the flooring must meet the standards in the act or as set forth as follows:

(1) In addition to the flooring already approved in section 207(i)(3) of the act (3 P.S. § 459-207(i)(3)), solid flooring is approved for use.

(2) Solid flooring must be sloped to a drain that is free of debris and in good repair.

(3) Drain covers shall be provided and shall be securely fixed and made of a noncorrosive substance.

(4) Flooring may not be metal nor any other material with high thermal conductance. This does not exclude the use of radiant heat flooring, or a flooring system to cool, provided that a dog has an area to escape the heat if it gets too warm or too cold.

(5) All floors and drains must comply with the latest edition of applicable codes.

(6) The surface of the flooring must provide the dogs with good footing. Examples include sealed concrete, painted concrete, epoxy flooring, sealed wood, textured and sealed tile.

(7) Flooring shall be cleaned in accordance with section 207(h)(14) of the act and may be subject to microbial assessment.

(8) Flooring may not be made of or coated with materials that are toxic to dogs.

[Pa.B. Doc. No. 09-1682. Filed for public inspection September 11, 2009, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 129]

Control of NO_x Emissions from Glass Melting Furnaces

The Department of Environmental Protection (Department) is soliciting comments on changes it recommends be made to the glass melting furnaces proposed rulemaking published at 38 Pa.B. 1831 (April 19, 2008).

The draft final-form rulemaking establishes in 25 Pa. Code Chapter 129 (relating to standards for sources) NO_x emission control requirements, emission limit standards, and emission limitations for glass melting furnaces and related administrative requirements for glass melting furnaces. The draft final-form rulemaking contains definitions of terms in Chapter 121 (relating to general provisions) including “blown glass,” “container glass,” “fiber-glass,” “flat glass,” “furnace rebuild,” “glass melting furnace,” “pressed glass,” “pull rate,” “rebricking,” “shutdown” and “start-up.” Compliance with the NO_x emission limits may be demonstrated on a furnace by furnace basis, facility-wide emissions averaging or by system-wide emissions averaging among glass melting furnaces under common control of the same owner or operator in this Commonwealth. This draft final-form rulemaking to reduce NO_x emissions from glass melting furnaces assures that the Commonwealth will continue to experience improved ozone, fine particulate and visibility benefits. NO_x is a precursor to ozone and fine particulates, which in turn facilitate the formation of haze. Adoption of NO_x emission limits for glass melting furnaces is part of the Commonwealth’s strategy, in concert with other Ozone Transport Region (OTR) jurisdictions, to reduce transport of ozone to attain and maintain the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS). In addition, the adoption of this measure will improve public health and social well being by reducing emissions of NO_x and the subsequent formation of ozone, fine particulates and haze and is reasonably necessary to attain and maintain the health-based ozone and fine particulate NAAQS. To the extent that this regulation is more stringent than any corresponding Federal requirements, it is reasonably necessary to achieve and maintain the health-based 8-hour ozone and the fine particulate NAAQS. This draft final-form rulemaking, if adopted as a final-form regulation, will also be submitted to the Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP).

A. Summary of the Advance Notice of Final-Form Rulemaking Changes

In response to comments received during the official public comment period on the proposed rulemaking for glass melting furnaces (38 Pa.B. 1831) and following the Department's review of other related information, the Department has prepared a draft final-form rulemaking for public comment. The draft final-form rulemaking contains significant changes in several areas. These changes include:

- The draft final-form rulemaking revises the definition of the term "glass melting furnace" to be consistent with the definition in EPA's final rule for Hazardous Air Pollutants for Area Sources: Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing (72 FR 73180, December 26, 2009).

- The draft final-form rulemaking adds the term "rebricking" in Chapter 121. The rebricking definition is consistent with the EPA's Standards of Performance for New Sources definition. (65 FR 61759, October 17, 2000). Furnace rebricking is an important distinction from a furnace rebuild in the glass melting industry, and therefore the draft final-form rulemaking adds the "rebricking" definition to address industry's concerns.

- The proposed rulemaking required compliance by May 1, 2009, for any owner or operator of a glass melting furnace that emits or has the potential to emit NO_x at a rate greater than 50 tons per year or 20 pounds per hour. The draft final-form rulemaking requires compliance by January 1, 2011.

- The NO_x surrender compliance option, which allowed for the purchase NO_x Clean Air Interstate Rule (CAIR) allowances, has been eliminated from the draft final-form rulemaking. The EPA held discussions with the Department subsequent to the closing of the public comment period on June 23, 2008, regarding the proposed rulemaking's option to demonstrate compliance with the emission limits through the purchase of NO_x CAIR allowances under the Federal CAIR regulation. During these discussions, the EPA indicated to the Department that providing a compliance option to purchase NO_x CAIR allowances in the final-form rulemaking would not result in the approval of a revision to the SIP because glass melting furnaces are not specifically included in the EPA CAIR program as a source category.

- The provision requiring compliance with the emission limits during the ozone season from May–September has been deleted. The draft final-form rulemaking requires compliance with the NO_x emission limits year-round because NO_x is a precursor to both the 8-hour ozone and fine particulate National ambient air quality standards. In addition, it is anticipated that EPA will extend the ozone season in this Commonwealth from March 1 to October 31, each year.

- The draft final-form rulemaking adds a NO_x emission limit applicable to a glass melting furnace that produces a glass product that is other than flat, container, fiberglass, pressed or blown. The Department considered commentators who suggested that their furnaces do not produce a glass product listed in the proposed rulemaking, and therefore an "other" category of glass product was added in the draft final-form rulemaking.

- The draft final-form rulemaking deletes the exemption from the NO_x emission limits for a glass melting furnace where the heat is supplied solely by an electric current from electrodes submerged in the molten glass. The Department believes that for furnaces that supply

heat from solely electrical electrodes will not emit NO_x emissions greater than 50 tons per year or 20 pounds per hour, and therefore the exemption is unnecessary.

- The draft final-form rulemaking adds an exemption from the NO_x emission limits for a glass melting furnace during idling. The Department concurred with commentators who requested the exemption because during an idling scenario, a glass melting furnace would be producing at less than 25% of the permitted production capacity or fuel use capacity in accordance with the applicable requirements in a Federally-enforceable plan approval or operating permit. When technologically feasible, controls must be operated to minimize emissions during idling.

- The draft final-form rulemaking adds a petition process for an alternative compliance deadline for any glass melting furnace that demonstrates to the Department's satisfaction that it is economically or technologically infeasible to meet the January 1, 2011, compliance deadline. The Department considered public comments which suggested that some furnaces cannot meet the emission limits without furnace rebuilds or furnace rebricks, and the furnaces are not anticipated to do rebuilds or rebricks before 2011, so allowing for an alternative compliance deadline is reasonable.

- The draft final-form rulemaking provides a petition process for alternative emission limitations for glass melting furnaces that produce a glass product other than flat, container, fiberglass, pressed or blown glass. The furnaces that produce a glass product other than flat, container, fiberglass or pressed and blown glass were not considered during the glass melting furnaces control measures strategy and planning within the Ozone Transport Commission, so providing them an alternative emission limitation is also reasonable.

- The draft final-form rulemaking adds a longer furnace start-up exemption time for furnaces that install NO_x controls that are not in common use or are not readily available from a commercial supplier. The approach is consistent with other states' glass melting furnace's regulations and affords the same flexibility for owners and operators installing NO_x controls in the Commonwealth.

- The draft final-form rulemaking provides an owner or operator of a glass melting furnace the option to demonstrate compliance with the emission limits on a furnace-by-furnace basis, facility-wide averaging basis, or a system-wide averaging basis among glass melting furnaces under common control of the same owner or operator in this Commonwealth. The draft final-form rulemaking includes a prohibition against demonstrating compliance using emissions averaging if an owner or operator of a glass melting furnace, having been granted approval by the Department, has voluntarily opted into a market-based program. The draft final-form rulemaking stipulates that an emission reduction obtained by emissions averaging to demonstrate compliance with the emission limits will not be considered surplus for emission reduction credit purposes. This prohibition is required to ensure that actual emission reductions due to the implementation of the rulemaking are occurring, and not being traded in a market-based NO_x program promulgated in the future as part of a Federal CAIR replacement rule. (CAIR was remanded to the EPA on December 23, 2008, by the United States Court of Appeals for the District of Columbia Circuit. The final rule which is expected in 2011, must be revised to be consistent with

the Court's July 11, 2008, decision in *State of North Carolina v. Environmental Protection Agency*, No. 05-1244 (D.C. Cir.).

- The draft final-form rulemaking requires a demonstration of compliance with the emission limits on a 30-day rolling averaging basis. Use of an arithmetic average of the daily emissions over a contiguous 30-day period to demonstrate compliance with the NO_x emission limitations is consistent with the OTC's model rule and rulemakings adopted or proposed by other OTR jurisdictions.

While there is no legal requirement to provide an opportunity to comment upon the Department's recommendations for final-form rulemaking, the Department believes further discussion would serve the public interest in this instance.

B. *Contact Persons*

For further information or to request a copy of the draft final-form rulemaking, contact Jane Mahinske, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17101-8468, (717) 783-8949,

jmahinske@state.pa.us; or Robert Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The draft final-form rulemaking is available electronically through the Department's web site (<http://www.dep.state.pa.us>), (Quick Access Keyword: Public Participation).

Written or electronic comments should be sent to Jane Mahinske at the previous address. Comments must be received by October 14, 2009. A subject heading of the rulemaking and a return name and address must be included in each letter or transmission. Comments will not be accepted by facsimile or voice mail.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1683. Filed for public inspection September 11, 2009, 9:00 a.m.]

STATEMENT OF POLICY

Title 101—GENERAL ASSEMBLY

CAPITOL PRESERVATION COMMITTEE

[101 PA. CODE CH. 1]

Right-to-Know Law—Statement of Policy

The Pennsylvania Capitol Preservation Committee, under section 504(a) of the Right-to-Know Law, enacted February 14, 2008, is adding the following statement of policy to read as set forth in Annex A.

This statement of policy is effective September 1, 2009.

RUTHANN HUBBERT-KEMPER,
Executive Director

(*Editor's Note:* Title 101 of the *Pennsylvania Code* is amended by adding a Statement of Policy in §§ 1.1—1.4, 11.1—11.7, 21.1 and 21.2 to read as set forth in Annex A.

Annex A

TITLE 101. GENERAL ASSEMBLY

PART VI. CAPITOL PRESERVATION COMMITTEE

CHAPTER 1. RIGHT-TO-KNOW LAW—STATEMENTS OF POLICY

Subch.	Sec.
A. PRELIMINARY PROVISIONS.....	1.1
B. OPEN RECORDS PROCEDURES OF THE CAPITOL PRESERVATION COMMITTEE	11.1
C. APPEALS	21.1

Subchapter A. PRELIMINARY PROVISIONS

Sec.	
1.1.	Authority.
1.2.	Scope.
1.3.	Definitions.
1.4.	Open-records officer.

§ 1.1. Authority.

This chapter is adopted and promulgated under section 504(a) of the law (65 P. S. § 67.504.4(a)).

§ 1.2. Scope.

This chapter establishes the process and procedures that the Committee will follow when responding to a request for access to or copies of legislative records in the possession, custody or control of the Committee.

§ 1.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Appeals officer—The individual responsible, under section 503(c)(1) of the law (63 P. S. § 67.503(c)(1)) for appeals from determinations of an open-records officer.

Bureau—The Legislative Reference Bureau.

Committee—The Capitol Preservation Committee.

Law—The Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

Legislative agency—Any of the following:

- (i) The Senate.
- (ii) The House of Representatives.
- (iii) The Bureau.
- (iv) The Committee.
- (v) The Center for Rural Pennsylvania.
- (vi) The Joint Legislative Air and Water Pollution Control and Conservation Committee.
- (vii) The Joint State Government Commission.
- (viii) The Legislative Budget and Finance Committee.
- (ix) The Legislative Data Processing Committee.
- (x) The Independent Regulatory Review Commission.
- (xi) The Local Government Commission.
- (xii) The Pennsylvania Commission on Sentencing.
- (xii) The Legislative Reapportionment Commission.
- (xiv) The Legislative Office for Research Liaison.
- (xv) The Legislative Audit Advisory Commission.

Legislative record—As defined in section 102 of the law (65 P. S. § 67.102).

Mass request—A number of requests under the law to which all of the following apply:

- (i) Each request is for the same legislative record.
- (ii) Each request is to the Committee.
- (iii) The number exceeds the daily average number of requests to the Committee by at least 200%.
- (iv) The requests are substantially identical in format and language.
- (v) The open-records officer is able to trace the requests to a common source.

Office of Open Records—The Office of Open Records established under section 1310 of the law (63 P. S. § 67.1310).

Open-records officer—The individual responsible for access to the information of the Committee under section 502(a)(2) of the law (63 P. S. § 67.502(a)(2)).

Requester—A person that makes a request for information from the Committee under the law.

§ 1.4. Open-records officer.

(a) Designation.

(1) Under section 502(a)(2) of the law (63 P. S. § 67.502(a)(2)), the Bureau has coordinated with the Committee to do one of the following:

(i) Accept the Capitol Preservation Committee's designation of the open-records officer.

(ii) Designate the head of the Committee as the open-records officer.

(2) The designation under paragraph (1), as it applies to the Committee, is as follows:

The Capitol Preservation Committee:
 Open-Records Officer
 Capitol Preservation Committee
 Room 630, Main Capitol Building
 Harrisburg, PA 17120
 Fax: (717) 772-0742
 E-mail: rtkrequest@cpc.state.pa.us

(b) *Notice.* The Bureau has published the designation in subsection (a) in the *Pennsylvania Bulletin*. See 38 Pa.B. 5755 (October 18, 2008).

Subchapter B. OPEN RECORDS PROCEDURES OF THE CAPITOL PRESERVATION COMMITTEE

Sec.	
11.1.	Hours of access.
11.2.	Contact information.
11.3.	Request format.
11.4.	Referral.
11.5.	Processing.
11.6.	Mass requests.
11.7.	Fee schedule.

§ 11.1. Hours of access.

The Right-to-Know Office of the Committee will be open from 9 a.m. to 4:30 p.m. Monday through Friday, except for official State and Federal holidays and other days the Committee is closed by direction of the Executive Director of the Committee.

§ 11.2. Contact information.

Right-to-Know requests shall be sent to:

Open-Records Officer
 Capitol Preservation Committee
 Room 630, Main Capitol Building
 Harrisburg, PA 17120
 Fax: (717) 772-0742
 E-mail: rtkrequest@cpc.state.pa.us

§ 11.3. Request format.

(a) *General.* The Committee will fulfill verbal, written or anonymous verbal or written requests for access under the law. If, however, the requester wishes to pursue the relief and remedies provided for in the law, the request must be a written request.

(b) *Written requests.* Requests in writing must be clearly marked as a Right-to-Know request and shall be submitted in person or by mail, e-mail or facsimile in one of the following manners:

- (1) On a form prescribed by the Office of Open Records.
- (2) On a form prescribed by the Committee.

(3) In a manner so that material requested describes records requested with specificity. In the event that one of the forms referenced in paragraph (1) or (2) is not used, the request must also include an address to which the Committee can provide its response.

§ 11.4. Referral.

(a) *Scope.* The Committee will forward a request for a legislative record not generated by the Committee to the appropriate legislative agency, to the extent that the appropriate legislative agency can be reasonably determined. In that event, the requester will be advised of this action. If the appropriate legislative agency cannot be reasonably determined, the Committee will respond under Chapter 9 of the law (63 P. S. §§ 67.901—67.905).

(b) *Status.* Forwarding a request under subsection (a) does not constitute a deemed denial under section 901 of the law (63 P. S. § 67.901).

§ 11.5. Processing.

(a) *Production.* Subject to § 11.6 (relating to mass requests), the Committee will process a request for any legislative record in its possession, custody or control. Legislative records in the possession, custody or control of the Committee will be produced in accordance with the law, and, except as otherwise exempt from access as set forth in the law.

(b) *Redaction.* In response to a request, the Committee may redact certain information, as required under section 706 of the law (63 P. S. § 67.706).

(c) *Record disposal.* For those requested legislative records that are produced and available for delivery at the Committee, the requester shall have 60 days to retrieve the records. If the records are not retrieved within 60 days of the Capitol Preservation Committee's response, the Committee may dispose of any copies which have not been retrieved and retain any fees paid to date.

(d) *Creation of records.* In response to a request for access, the Committee will not create a record which does not currently exist and is not required to compile, maintain, format or organize a record in a manner in which the Committee does not currently compile, maintain, format or organize records.

§ 11.6. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Committee, in an analogous manner to that described in section 506(a)(1) of the law (63 P. S. § 67.506(a)(1)), for multiple requests by the same requester, the following apply:

(1) The open-records officer will respond to the common source identified by the open-records officer; will respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the Committee.

(2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

§ 11.7. Fee schedule.

(a) *General rule.* The following apply:

(1) With the exception of blueprints, the fee for copying a document is 25¢ per page.

(2) The fee for postage will not exceed actual mailing costs.

(3) The fee for certifying a document is \$5 per document, regardless of the number of pages. Each document requires separate certification and fee.

(4) The fee for redaction of a document is 25¢ per page.

(5) The fee for providing documents on a compact disc is \$5.

(6) The fee for copying blueprints is the cost incurred by the Committee to have the blueprints copied by an outside vendor, as the Committee does not have the means to copy blueprints. The fee will include not only the charge assessed by the outside vendor, but also any cost necessarily incurred for complying with the request.

(b) *Payment.*

(1) Except as set forth in paragraph (2), payment arrangements shall be made between the requester and the open-records officer.

(2) Under section 1307(h) of the law (65 P. S. § 67.1307(h)), if the total fee exceeds \$100, payment must be made prior to the initiation of the providing of the document. If prepayment is required, the payment should be in the form of cash or a certified check or money order made payable to "Capitol Preservation Committee" in the total amount of the fee.

Subchapter C. APPEALS

Sec.

21.1. Right to appeal.

21.2. Appeal procedures.

§ 21.1. Right to appeal.

(a) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the right-to-know appeals officer within 15 business days

of the mailing date of the agency's response or within 15 business days of the deemed denial at the following address:

Right-to-Know Appeals Officer
Legislative Reference Bureau
641 Main Capitol Building
Harrisburg, PA 17120
Fax: (717) 787-4828
E-mail: lrbbrighttoknow@palrb.net

(b) The appeal must state the grounds upon which the requester asserts that the record is a legislative record and must address any grounds stated by the Committee for delaying or denying the request.

§ 21.2. Appeal procedures.

The procedures on appeal shall be those as promulgated by the Bureau.

[Pa.B. Doc. No. 09-1684. Filed for public inspection September 11, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Year 2010 Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$550,000 in grants under its Year 2010 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$15,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

The Department hereby gives notice that although it proposes the Program for year 2010, there is not likely to be a similar program in 2011. Humane societies or associations for the prevention of cruelty to animals are hereby provided notice of this fact and—for budgeting and financial planning purposes—should proceed on the assumption that the Department will not be offering a year—2011 version of the Program or, at best, will be offering a significantly scaled-back version of the Program.

In fulfillment of 7 Pa. Code § 23.4 (relating to guidelines and conditions), the Department invites public and legislative review of the proposed guidelines and conditions set forth as follows. Comments should be submitted, in writing, so they are received by the Department no later than October 12, 2009—30 days from the date the proposed guidelines and conditions are published in the *Pennsylvania Bulletin*. Comments should be directed to Sue West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

The Department will review and consider all written comments in preparing the final guidelines and conditions for the Program. The final guidelines and conditions for the Program will be published in the *Pennsylvania Bulletin* after the close of the comment period referenced. The Department will invite the submission of grant applications at that time.

The proposed guidelines and conditions for the Program are as follows.

Proposed Guidelines and Conditions for the Year 2010

Dog Control Facility Bill Reimbursement Grant Program

1. Definitions.

The following words and terms, when used in these guidelines and conditions, have the following meanings:

Department—The Department of Agriculture.

Dog control—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Eligible Bill—A document seeking payment for materials, services (other than veterinary services and spaying/neutering services) or utilities from a grant recipient, setting forth the following:

i. The date the document is issued.

ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.

iii. If for materials, a description of the materials and the date of delivery must be included. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:

- Cleaning supplies;
- Office supplies—typical supplies used to carry on daily office duties;
- Materials for building and repair projects; and
- Purchases of medication, needles, and the like.

iv. If for services, the services must be other than veterinary services or spaying/neutering services, and shall include a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:

- Labor charges with respect to which the invoice details the exact service performed and the date of performance;
- Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.
- Exterminator services with respect to which the invoice identifies the date of the service and identifies location of the service.

• Property, casualty and liability insurance services (excluding workers compensation insurance).

v. If for utilities (such as electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.

vi. The name, address and telephone number of the entity issuing the invoice or receipt.

Humane society or association for the prevention of cruelty to animals (SPCA)—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Program—The Year 2010 Dog Control Facility Bill Reimbursement Program.

2. Eligibility.

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

a. Has been in operation for at least 1 year immediately preceding the application date.

b. Has performed dog control functions for at least 1 year immediately preceding the application date.

c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.

d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2010.

e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2010.

f. Agrees—as a condition of receiving any grant money under the Program—to accept stray or unwanted dogs as described in the preceding paragraph without regard to whether the stray or unwanted dog originates from a county other than the county in which the humane society or association for the prevention of cruelty to animals is located.

g. Has a valid Pennsylvania 2010 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

h. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2010 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2010, the maximum grant amount will not exceed \$15,000.

i. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2010 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2010, the maximum grant amount will not exceed \$10,000.

3. *Use of Grant Funds.*

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$15,000 with respect to any application.

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2010, through December 31, 2010. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2010, or after December 31, 2010, that bill is not an eligible bill and will not be reimbursed by the Department under the Program.

4. *Application Process.*

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request, or the application may be downloaded from the Department's web site: www.agriculture.state.pa.us.

Requests for application forms should be directed to Susan West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

i. The name and address of the applicant.

ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.

iii. The maximum grant amount sought by the applicant—not to exceed \$15,000 (or \$10,000, if Paragraph 2(i) is applicable).

iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2009 for the same type of materials, services (other than veterinary services and spaying/neutering services), or utilities for which reimbursement will be sought under the grant agreement.

v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2010.

vi. Other information as the Department might reasonably require.

5. *Review and approval of grant application.*

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 30 days from the date the Bureau of Dog Law Enforcement receives the grant application, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 30 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

i. The number of applications received and the availability of funds for the grants sought.

ii. The relative contribution of the applicant to dog control activities in the area it serves.

iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.

iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

vi. The relative contribution of the applicant in terms of the number of stray or unwanted dogs it accepts from the Department's State Dog Wardens performing dog control functions.

6. *Grant agreement.*

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions pursuant to which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By July 15, 2010, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1, 2010 and June 30, 2010; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

By January 15, 2011, the grant recipient will: (1) deliver copies of the eligible bills it has paid between July 1, 2010 and December 31, 2010; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 60 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 09-1685. Filed for public inspection September 11, 2009, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 1, 2009.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-21-2009	Community State Bank of Orbisonia Orbisonia Huntingdon County	415 Fulton Drive McConnellsburg Fulton County	Opened
8-21-2009	Susquehanna Bank Lititz Lancaster County	1800 Dual Highway Hagerstown Washington County, MD	Filed

NOTICES**5327**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-25-2009	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	545 West Street Road Warminster Bucks County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-21-2009	Northwest Savings Bank Warren Warren County	325 Center Street Chardon Geauga County, OH	Closed

Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
8-27-2009	Mifflinburg Bank and Trust Company Mifflinburg Union County	Filed

Articles of Amendment provide for the institution's Articles of Incorporation to be amended and restated in their entirety.

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
8-28-2009	First Choice Federal Credit Union New Castle Lawrence County	Filed

Application for approval to merge New Castle Postal Employees Credit Union, New Castle, with and into First Choice Federal Credit Union, New Castle.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-1686. Filed for public inspection September 11, 2009, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting Notice

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, September 23, 2009, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

C. ALLEN SACHSE,
Chairperson

[Pa.B. Doc. No. 09-1687. Filed for public inspection September 11, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years, subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063924 (Sewage)	Department of Conservation and Natural Resources Delaware Canal State Park Teddy Roosevelt Picnic Area 11 Lodi Hill Road Upper Black Eddy, PA 18972-9540	Northampton County Williams Township	Delaware River 2D	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061026 (Sewage)	Big Pocono Utilities, Inc. Ski Side Village and Chateau Resort Tannersville, PA 18372	Monroe County Pocono Township	Pocono Creek 1E	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0038865 (Sewage)	Zerbe Township Wastewater Treatment Plant Off Route 225 Trevorton, PA 17881	Zerbe Township Northumberland County	Zerbe Run CWF 6B	Y
PA0228095 (Sewage)	Tulpehocken Spring Water Co., Inc. 750 Point Township Drive Northumberland, PA 17857	Point Township Northumberland County	Catawissa/Roaring Creeks 5E	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0100315	Farma Parks, Inc. 87 Hughey Road Greenville, PA 16125-09628	Perry Township Mercer County	UNT of Little Shenango River 20-A	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA0244210, Industrial Waste, SIC 2841, **Crystal, Inc.—PMC**, 601 West Eight Street, Lansdale, PA 19446. This facility is located in Lansdale Borough, **Montgomery County**.

Description of Proposed Activity: Amendment 1 to an NPDES permit for the discharge of stormwater from an industrial facility. A monitoring requirement for sulfite will be added to the permit.

The receiving stream, a UNT (Pa. Stream Code 02889) to the West Branch Neshaminy Creek, is in the State Water Plan Watershed 2F and is classified for: WWF and MF. The nearest downstream public water intake is located on Neshaminy Creek.

The proposed effluent limits for Outfalls 001—004 are based on a stormwater event.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD ₅					Monitor and Report
COD					Monitor and Report
Oil and Grease					30
pH					Monitor and Report
Total Suspended Solids					Monitor and Report
Total Phosphorus					Monitor and Report
Total Kjeldahl Nitrogen					Monitor and Report
Iron, Total					Monitor and Report
Surfactants (MBAS)					Monitor and Report
Sulfite					Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions:

1. Stormwater Conditions.

PA0058882, Industrial Waste, SIC 3272, **Delaware Valley Concrete Company, Inc.**, 248 East County Line Road, Hatboro, PA 19040. This facility is located in Kennett Township, **Chester County**.

Description of Proposed Activity: This application requests approval of a NPDES permit to discharge stormwater run-off from the site of a manufacturer of concrete products located at 2 Ways Lane in Kennett Square, PA.

The receiving stream, a UNT to East Branch Red Clay Creek, is in the State Water Plan Watershed 3I and is classified for: TSF, aquatic life, water supply, and recreation.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Annual</i>	<i>Average Semi-Annual</i>	<i>Maximum Daily</i>
Total Suspended Solids (Issuance—year 2) (Year 3—expiration)			M/R 50	M/R M/R	M/R 100
pH (Standard Units) (Issuance—year 2) (Year 3—expiration)			M/R 6.0 (Minimum)	M/R	M/R 9.0 (Maximum)
Oil and Grease			M/R	M/R	M/R
pH (Upstream) (Downstream)			M/R M/R	M/R M/R	M/R M/R

M/R—Monitor and Report.

In addition to the effluent limits, the permit contains the following major special conditions:

1. DMR to DEP.
2. BAT/ELG Reopener.
3. Change of Name or Ownership.
4. Stormwater Outfall Requirements.
5. Instream pH Monitoring.

PA0058629, Industrial Waste, SIC 5015, **Francis E. Schultz, Jr., d/b/a Jamison's Used Auto Parts**, 529 Flint Hill Road, King of Prussia, PA 19406. This facility is located in Upper Merion Township, **Montgomery County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge stormwater from an automotive recycling and salvage facility.

The receiving stream, a UNT to the Schuylkill River, is in the State Water Plan Watershed 3F and is classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Philadelphia Water Department is located on the Schuylkill River and is approximately 9.0 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of an average storm event:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
COD					Monitor
Total Suspended Solids					Monitor
Oil and Grease				15.0	30.0
pH (Standard Units)			6.0 Minimum		9.0
Dissolved Iron					Monitor
Aluminum					Monitor
Cadmium					Monitor
Chromium					Monitor
Copper					Monitor
Lead					Monitor
Zinc					Monitor
Total Recoverable Petroleum Hydrocarbons					Monitor
Gasoline Range Organics					Monitor
Diesel Range Organics					Monitor
BTEX					Monitor

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures if Public Nuisance.
2. Small Stream Discharge.
3. Necessary Property Rights.
4. BAT/ELG Reopener.
5. Change in Ownership.

6. Proper Sludge Disposal.
7. Stormwater Requirements.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

Application No. PA0260398, CAFO, **Yippee Farms**, 880 Pinkerton Road, Mount Joy, PA 17552. Arlin Benner has submitted an application for an Individual NPDES permit for a CAFO known Yippee Farms, located in Rapho Township, **Lancaster County**.

The CAFO is situated near Little Chickies Creek, which is classified as a TSF. The CAFO includes a home farm and two satellite farms designed to maintain an animal population of approximately 1,471 animal equivalent units consisting of 690 milk cows, 130 dry cows, 570 heifers, 90 dairy calves and seven bulls. Liquid manure is stored in a combination of above ground steel Slurrystore and below ground concrete tanks with a capacity of approximately 1.1 million gallons. Manure produced at the operation is applied onsite or exported to local farmers in accordance with an approved Nutrient Management Plan. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions, and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

Persons may make an appointment to review the Department's files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0263575, Sewage, **Sheryl A. Colangeli**, 793 Saxonburg Boulevard, Saxonburg, PA 16056. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Activity: A new NPDES permit for a new discharge of treated sewage.

The receiving water is Rocky Run. The receiving stream is in State Water Plan 18-A and is classified for the following uses: TSF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Oakmont Borough Municipal Authority intake, is located on the Allegheny River and is approximately 16.46 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

Parameter	Average Monthly (mg/l)	Concentrations	
		Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD ₅	10		10
Total Suspended Solids	10		10
Fecal Coliform		200/100 ml as a Geometric Average	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and Report.

The EPA waiver is in effect.

PA0101265, Sewage, **Andrew L. Hatton, d/b/a Shangri La Mobile Home Court**, 25368 Maple Lane, Cochranon, PA 16314. This proposed facility is located in West Shenango Township, **Crawford County**.

Description of Proposed Activity: New permit for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation, is located on the Shenango River (Greenville Municipal Authority) and is approximately 11 miles below point of discharge.

The receiving stream, the UNT to Shenango River (Pymatuning Reservoir), is in Watershed 20-A and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0056 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	1.4		3.3
Dissolved Oxygen		minimum of 3 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and Report on monthly DMRs.

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 5809402, Sewerage, **Forest City Borough**, 535 Main Street, Forest City, PA 18421. This proposed facility is located in Forest City Borough, **Susquehanna County**.

Description of Proposed Action/Activity: This project is for the replacement of the Borough's existing sewage collection system with new gravity sanitary sewers.

WQM Permit No. 4009409, Sewerage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3420. This proposed facility is located in White Haven Borough, **Luzerne County**.

Description of Proposed Action/Activity: This project involves modifications to the Powerhouse Road Pump Station and construction of a 1,100 foot force main.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 6793404, Amendment 09-1, Sewerage, **Exit II WWTP, Inc.**, P. O. Box 1387, York, PA 17405-1387. This proposed facility is located in Springfield Township, **York County**.

Description of Proposed Action/Activity: Addition of a tertiary filter and other improvements at existing wastewater treatment plant.

WQM Permit No. 6709402, Sewerage, **York City Sewer Authority**, 345 East Market Street, York, PA 17403. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: Upgrade of existing WWTP to meet proposed nutrient limits.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 1490410-A2, Sewerage, SIC 4952, **Spring-Benner-Walker Joint Municipal Authority**, South Rockview Road and PA-26 (East College Avenue), Bellefonte, PA 16823. This proposed facility is located in Benner Township, **Centre County**.

Description of Proposed Action/Activity: SCI Benner Township is proposing to relocate a portion of force main from the Spring-Benner-Walker Joint Municipal Authority Pump Station No. 6 located on SR 26, because the existing force main crosses the section of property where the new 2,000 inmate SCI Benner Township Prison will be built.

WQM Permit No. 1409407, Sewerage, SIC 4952, **Department of General Services**, South Rockview Road and PA-26 (East College Avenue), Bellefonte, PA 16823. This proposed facility is located in Benner Township, **Centre County**.

Description of Proposed Action/Activity: SCI Benner Township is proposing to construct a 2,000 inmate correctional facility, which will necessitate the construction of a sewer line extension and a comminutor/screen unit to pretreat the wastewater.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI01 4609002	Montgomery County Community College 101 College Drive Pottstown, PA 19484	Montgomery	Pottstown Borough	Schuylkill River WWF-M

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI024509012	Tobyhanna Army Depot 11 Hap Arnold Boulevard Mail Stop 5078 Tobyhanna, PA 18466	Monroe	Coolbaugh Township	Tobyhanna Creek HQ-CWF, MF
PAI024509013	Snydersville Development Group, LLC P. O. Box K Stroudsburg, PA 18360	Monroe	Hamilton Township	Appenzell Creek HQ-CWF, MF
PAI024509010	Stroudsburg Area School District 123 Linden Street Stroudsburg, PA 18360	Monroe	Stroudsburg Borough	Pocono Creek HQ-CWF, MF
PAI024509011	Verizon Wireless 4642 Jonestown Road Suite 200 Harrisburg, PA 17109	Monroe	Price Township	Brodhead Creek HQ-CWF, MF

Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI023909004(1)	Christopher Fencel Cedar-Trexler Plaza 2, LLC and Cedar-Trexler Plaza 3, LLC 3307 Trindle Road Camp Hill, PA 17011	Lehigh	Upper Macungie and Lower Macungie Townships	Tributary to Iron Run HQ-CWF, MF

Northampton County Conservation District: 14 Gracedale Avenue, Greystone Building, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI024804031R	Tim Frankenfield Plainfield Township 6292 Sullivan Trail Nazareth, PA 18064	Northampton	Plainfield Township	Mud Run CWF Little Bushkill Creek HQ-CWF, MF

Wayne County Conservation District: Agricultural Service Center, 470 Sunrise Avenue, Honesdale, PA 18431, (570) 253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI026409005	Robert Wiegiers 486 Crawford Road Narrowsburg, NY	Wayne	Damascus Township	Tributary to Delaware River HQ-CWF, MF
PAI026409006	Association of Property Owners of The Hideout, Inc. 640 The Hideout Lake Ariel, PA 18431	Wayne	Lake Township	Tributary to Wagnum Creek Wallenpaupack Creek HQ-CWF, MF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033809001	Robert Kettering Ketterline, Inc. 3121A Mount Joy Road Mount Joy, PA 17552	Lebanon	Heidelberg Township	Segloch Run EV

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041409010	Jack Raykovitz Second Mile-Center for Excellence 1402 Atherton Street State College, PA 16801	Centre	Patton Township	UNT to Buffalo Run HQ-CWF

Union County Conservation District: Union County Government Center, 155 North 15th Street, Lewisburg, PA 17837, (570) 524-3860.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI046009001	Edwin Hoover 2165 Paddy Mountain Road Millmont, PA 17845	Union	Hartley Township	UNT to Penns Creek HQ-CWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Douglas E. Rohrer 1728 Bridge Road Lancaster, PA 17602	Lancaster	705	835.2	Poultry	NA	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 5009502, Public Water Supply.

Applicant	Newport Borough Water Authority
Municipality	Newport Borough
County	Perry
Responsible Official	Barbara Hart Chairperson 231 Market Street Newport, PA 17074
Type of Facility	Public Water Supply
Consulting Engineer	Max E. Stoner, P. E. Glacé Associates, Inc. 3705 Trindle Road Camp Hill, PA 17011
Application Received	August 28, 2009

Description of Action	The construction of a 500,000 gpd membrane filtration plant, a booster station and replacement of approximately 7,000 linear feet of watermain.
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Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 1009502, Public Water Supply.

Applicant	Evans City Water and Sewer Authority
Township or Borough	Jackson Township Butler County
Responsible Official	Timothy Schoeffel Chairperson
Consulting Engineer	Joseph P. Pacchioni, P. E. Herbert, Rowland & Grubic, Inc. 200 West Kensing Drive Suite 400 Cranberry Township, PA 16066
Application Received Date	August 24, 2009

Description of Action	New public water supply to service Glade Run Estates development, as well as future expansion. System is considered to be a consecutive system.
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Application No. 2009507, Public Water Supply.

Applicant	Saegertown Borough
Township or Borough	Saegertown Borough Crawford County
Responsible Official	Charles T. Lawrence Borough Manager
Consulting Engineer	Bruce D. Patterson, P. E. Design Engineer Porter Consulting Engineers 814 North Main Street Meadville, PA 16335
Application Received Date	August 28, 2009

Description of Action	Construct Wells No. 6 and No. 7, a well house and treatment system to add capacity to the Borough water supply.
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MINOR AMENDMENT

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 1601502-MA1, Minor Amendment.

Applicant	Foxburg Borough Area Water and Sewer Authority
Township or Borough	Foxburg Borough Clarion County
Responsible Official	Larry Preston Chairperson Foxburg Area Water and Sewer Authority P. O. Box 2 Foxburg, PA 16036-0002
Type of Facility	Public Water System

Application Received Date	August 25, 2009
Description of Action	Facilities upgrade including renovation existing finished water storage tank; addition of new glass fused potable water tank system, replacing undersized lines, nonworking hydrants, and the like.

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WA 10-1011, Water Allocations. Evans City Water & Sewer Authority, 204B South Jackson Street, Evans City, PA 16033, **Butler County**. The permittee has submitted a permit application for bulk purchase of water from Cranberry Township to serve the 19 unit Glade Run Estates located in Jackson Township. The amount of water to be purchased is 7,000 gpd peak month (30 day average).

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as

a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Former New Jersey Zinc Company—West Plant, Mauch Chunk Road, Palmerton Borough, **Carbon County**. J. Mark Nielsen, ENVIRON International Corporation, 1760 Market Street, Suite 1000, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate (on behalf of his client, CBS Operations, Inc., 299 South Main Street, Suite 1800, Salt Lake City, UT 84111), concerning the remediation of soil and groundwater found to have been impacted by VOCs, SemiVOCs, and metals as a result of historical operations at this former zinc manufacturing plant. The applicant proposes to remediate the site to meet the Site-Specific Standard. The proposed future use of the property will remain nonresidential for industrial purposes. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on August 6, 2009.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Vulcan Materials Company, formerly York Lintel and Cast Stone, Inc., Oxford Township, **Adams County**. Herbert, Rowland, & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Vulcan Materials Company, 875 Oxford Avenue, Hanover, PA 17331, submitted a Notice of Intent to Remediate site soils contaminated with diesel fuel. The site formerly operated as a manufacturer of cast concrete lintels and will remain industrial.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications Received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

PAD002312791. Sunoco Chemicals, Inc., Frankford Plant, Margaret and Bermuda Streets, Philadelphia, PA 19137-1193, City of Philadelphia, **Philadelphia County**. This class I permit modification application is requesting the approval to change the permittee's legal name from "Sunoco, Inc. (R & M)" to "Sunoco Chemicals, Inc." for the existing RCRA permit for Sunoco's Frankford Plant located in the City of Philadelphia. Application was received by the Southeast Regional Office on July 31, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 400590. Riddle Memorial Hospital, 1068 West Baltimore Pike, Route 1, Media, PA 19063. This permit application is for the 10-year renewal of the existing solid waste permit to continue the operation of the infectious/pathological waste incinerator at the Riddle Memorial Hospital in Middletown Township, **Delaware County**. The application was received by the Southeast Regional Office on August 26, 2009.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for

the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

20-302A: Farley's Industrial Services (818 West Spring Street, Titusville, PA 16354) for installation of two solvent recovery dryers for print towels at their facility in the City of Titusville, **Crawford County**.

20-303A: Crawford Central School District (860 Thurston Road, Meadville, PA 16335) for construction of a new biomass combustion unit providing renewal energy to heat the Meadville Area Middle—High School, Crawford County Career and Technical Center and the Meadville Recreation Complex in the City of Meadville, **Crawford County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

23-0113: AT&T Communications of Pennsylvania, LLC. (60 West Avenue, Wayne, PA 19087) for operation of two combustion turbine electric generators at an existing facility in Wayne, **Delaware County**. These kerosene-fired turbine generator sets are being permitted for operation to provide emergency and demand response power generation for the facility. The primary pollutant of concern is NO_x as a result of the combustion process. The operation of these sources do not cause any major thresholds to be exceeded. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

39-309-074: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for construction and opera-

tion of a dust collector at their facility in Whitehall Township, **Lehigh County**. The source's main emission is PM. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

06-05066H: Exide Technologies (P. O. Box 13995, Reading, PA 19612-3995) for installation of a replacement thermal oxidizer to control emissions from the existing secondary lead smelting system at their Reading Smelter in Laureldale Borough and Muhlenberg Township, **Berks County**. The new oxidizer will replace an existing oxidizer. The oxidizer is used to control emissions of odors, VOC and CO emitted from the No. 1 Smelting System which includes a blast furnace and reverberatory furnace. The furnaces are subject to 40 CFR Part 52, Subpart A, Prevention of Significant Deterioration; Part 60 Subpart L, Standards of Performance for New Stationary Sources, NSPS; and Part 63, Subpart X, National Emission Standards for HAPs from Secondary Lead Smelters, MACT. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility is presently covered by the Title V operating permit No. 06-06066. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-313-024D: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) for installation of a new CAMCORP model 9SFTRW84x81 fabric collector and final filter to control the PM from existing sources in department (003) at their facility in North Towanda Township, **Bradford County**. This is a State-only facility.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by GTP indicates that the sources controlled by the proposed fabric collector and final filter will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13, and the visible emission limitation of 25 Pa. Code § 123.41. The plan approval, if issued, will subsequently be incorporated into the State-only operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date.

Based upon this finding, the Department proposes to issue a plan approval for the installation of the fabric collector and final filter to control PM emissions from the sources. The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

Source ID P301 consists of the following equipment: one boat loading station, five furnace loading stations, 19 furnace dumping stations, nine sifters, one furnace and one tote bin transfer station. The PM emissions from Source ID P301 shall be controlled by a CAMCORP model 9SFTRW84x81 fabric collector (ID C301A) and final filter (ID C301B).

Work practice requirements to operate the sources and control devices with good air pollution control practices.

Recordkeeping and Reporting conditions to verify compliance with all applicable requirements.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

63-00936B: Mark West Liberty Midstream and Resources, LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) for construction of four new sources units: a depropanizer, deethanizer and process heaters H-101 and H-801 at the existing Mark West Liberty Midstream and Resources, LLC, Houston Gas Plant in Chartiers Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the construction of four new sources units: a depropanizer, deethanizer and process heaters H-101 and H-801 at the existing Mark West Liberty Midstream and Resources, LLC, Houston Gas Plant located in Chartiers Township, Washington County. The facility processes natural gas.

Emissions from the new process units are estimated to be 15.86 tons of NO₂, 12.66 tons of CO, 12.98 tons of VOC and 1.18 tons of PM₁₀. Following completion of this project, emissions from this facility will be 38.85 tons of NO₂, 35.03 tons of CO, 32.28 tons of VOC and 2.38 tons of PM₁₀. The proposed process units are subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources and 40 CFR 60, Subpart KKK. The Department believes that the process units will meet these requirements by complying with the following Plan Approval conditions relating to restrictions, monitoring, recordkeeping, reporting and work practice standards:

1. Plan Approval authorizes the construction of four new sources: a depropanizer, deethanizer and process heaters H-101 and H-801 at the existing Mark West Liberty Midstream and Resources, LLC, Houston Gas Plant located in Chartiers Township, Washington County. The facility processes natural gas. (25 Pa. Code § 127.12b)

2. Emission into the outdoor atmosphere of PM from process combustion units H-101 and H-801 in excess of the rate of 0.4 pound per mmBtu of heat input, when the heat input to the combustion unit in mmBtu/hr is greater than 2.5 but less than 50, is prohibited. (25 Pa. Code § 123.11(a)(1))

3. Emission into the outdoor atmosphere of SO_x, expressed as SO₂, from process combustion units, H-101 and H-801 in excess of the rate of 4 pounds per mmBtu of heat input over any 1-hour is prohibited. (25 Pa. Code § 123.22(a)(1))

4. These process units shall be operated in compliance with the applicable requirements of 40 CFR 60, Subpart KKK—Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. (40 CFR 60, Subpart KKK)

5. Reports submitted for 40 CFR 60, Subpart KKK purposes shall be submitted to both the Department and United States Environmental Protection Agency (EPA) at the following addresses:

Regional Air Protection Manager
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA, 15222

Director, Air Protection Division
United States EPA Region III
1650 Arch Street
Philadelphia, PA, 19103-2029

6. Permittee shall institute and conduct an audio, visual, and olfactory leak detection and repair (LDAR) program performed once each 2 weeks to minimize VOC emissions. (25 Pa. Code § 127.12b)

7. The owner/operator shall keep daily records of all product delivery. These records shall be kept on site for a period of 5 years and be made available to the Department upon request. (25 Pa. Code § 127.12b)

8. Emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated are prohibited. (25 Pa. Code § 123.31(b))

9. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met. (25 Pa. Code § 127.12b)

A. Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department (25 Pa. Code § 127.12b).

B. Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit a State-only Operating Permit application at least 60 days prior to the expiration date of the Plan Approval (25 Pa. Code § 127.12b).

C. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this Plan Approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. Such testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at such time as it notifies the company that testing is required (25 Pa. Code § 127.12b).

10. This approval to construct shall become invalid if: the construction, modification or installation is not commenced (as defined in 40 CFR 52.21(b)(8)) within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction, modification or installation. The Department may extend the

18-month period upon a satisfactory showing that an extension is justified. (25 Pa. Code § 127.13(c))

11. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit. Submit an Operating Permit application within 180 days of commencement of construction.

12. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1. (25 Pa. Code § 121.1)

13. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a) and (b))

14. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

A. When construction, installation, modification or re-activation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

B. Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

C. This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

D. The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 180 days.

E. The notice submitted by the permittee under subpart (a) previously, prior to the expiration of the plan approval, shall modify the plan approval expiration date on page 1 of this plan approval. The new plan approval expiration date shall be 180 days from the date of commencement of operation.

15. If, at any time, the Department has cause to believe that air contaminant emissions from the sources

listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at the time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

16. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

17. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph (a) of this condition.

A. Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with §§ 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code §§ 127.12(c) and (d) and 35 P.S. § 4013.2)

18. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval.

A. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

B. If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for Departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

- (i) A justification for the extension,
- (ii) A schedule for the completion of the construction.

C. If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

D. If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse

in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (relating to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

19. This plan approval may not be transferred from one person to another except when a change of ownership is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

20. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

21. This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

22. Under 35 P.S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

23. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

24. Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P.S. § 4008 and section 114 of the CAA)

25. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

A. The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

B. The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

C. The permittee fails to submit a report required by this plan approval.

D. The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code § 127.13a)

26. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

27. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of

air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

28. Reports, test data, monitoring data, notifications shall be submitted to the following:

Regional Air Program Manager
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222-4745

29. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (P.L. 106-40).

A. The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of section 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

B. The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

(i) Three years after the date on which a regulated substance is first listed under 40 CFR 68.130; or,

(ii) The date on which a regulated substance is first present above a threshold quantity in a process.

C. The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

D. The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

E. As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling or onsite movement of the substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).

- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00045: PECO Energy—West Conshohocken Gas Plant (300 Front Street, Building 3, West Conshohocken, PA 19428) for compression and storage of liquid natural gas in West Conshohocken Borough, **Montgomery County**. The facility's major air emission points include: vaporizers, preheaters, emergency generators, and a combustion turbine, which emit major levels of NO_x and PM₁₀. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

08-00003: CraftMaster Manufacturing, Inc. (P.O. Box 311, Towanda, PA 18848-0311) for their engineered wood products manufacturing facility in Wysox Township, **Bradford County**.

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a significant modification of Title V Operating Permit to CraftMaster Manufacturing, Inc. for their engineered wood products manufacturing facility located in Wysox Township, Bradford County. The CraftMaster representative to contact regarding this operating permit is Colby Benton, Environmental and Technical Manager, CraftMaster Manufacturing, Inc., P.O. Box 311, Towanda, PA 18848-0311.

The facility's major sources include a 273.2 mmBtu/hr natural gas/wood fired boiler, two lines of first and second stage fiber dryers, three hardboard presses, two natural gas fired tempering kilns, five coating lines, numerous woodworking operations (that is, sawing, sanding, planing, hogging, and the like) and wood fuel handling operations. The sources at the facility have the potential to emit major quantities of CO, PM₁₀, NO_x, VOCs and HAPs. The facility emits SO_x below the major emission thresholds. The Title V operating permit includes compliance assurance monitoring conditions as required in 40 CFR Part 64 and applicability conditions for two maximum achievable control technology rules, including, 40 CFR Part 63, Subpart QQQQ and 40 CFR Part 63, Subpart DDDD. Numerous conditions were revised for clarification and administrative purposes, including the monitoring and recording requirements and emission and fuel restrictions. The proposed Title V operating permit modification contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review

must be made by calling (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

V09-010: Allied Tube & Conduit Corp. (11350 Norcom Road, Philadelphia, PA 19154) for operation of a tube and conduit manufacturing facility in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emissions' sources include three mills, one space heater rated at 3.76 mmBtu/hr, and four space heaters rated at 801,000 Btu/hr each.

The operating permit will be reissued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the previously listed operating permit must submit their protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Contingent upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

35-00030: General Dynamics Land Systems (175 East Street, Eynon, PA 16403) to manufacture military tank components in Archbald Borough, **Lackawanna County**. This is a State-only Synthetic operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

45-00032: BioSpectra, Inc. (R.R. 32, Box 2129G, Stroudsburg, PA 18360) for operation of a pharmaceutical excipient manufacturing process consisting of a urea dryer process line and a tris/HCL dryer process line using an individual dust collector to control PM emissions from each process line at their facility in Stroud Township, **Monroe County**. This facility is currently operating under Operating Permit 45-313-014. All permit requirements shall be included in the new State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

06-03047: Metropolitan Steel Industries, Inc. (601 Fritztown Road, Sinking Springs, PA 19608) for a renewal of their State-only operating permit for operation of their steel fabrication plant in Spring Township, **Berks County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

21-05064: Atlas Roofing Corp. (817 Spangler Road, Camp Hill, PA 17011) for their polyisocyanurate foam manufacturing facility in Camp Hill Borough, **Cumberland County**. This is a renewal of the State-only operating permit issued in 2004.

PLAN APPROVALS

Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These actions may include the administrative amendments of an associated operating permit.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

59-00004D: Ward Manufacturing, LLC (117 Gulick Street, P.O. Box 9, Blossburg, PA 16912) to construct a natural gas-fired wastewater evaporator in Blossburg Borough, **Tioga County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P.S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above

each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121–77.123 and 86.31–86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES

permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91–96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

11040701 and NPDES Permit No. PA0235717, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to revise the permit for the Refuse Area No. 1 in Portage Township, **Cambria County** for a stream variance to a UNT to Spring Run to install brush

windrows. No additional discharges. Application received May 7, 2009.

17831601 and NPDES Permit No. PA0215317, River Hill Coal Company, Inc., (P. O. Box 141, Kylertown, PA 16847), to renew the permit for Belford Siding in Karthaus Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received June 12, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56930114 and NPDES No. PA0212679. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 28.8 acres. Receiving streams: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 21, 2009.

56813104 and NPDES No. PA0599115. Finzel Coal, 12152 National Pike, Grantsville, MD 21536-2105, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 344.7 acres. Receiving streams: UNTs to/and Tubs Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 24, 2009.

32990104 and NPDES No. PA0235059. ABM Mining Company, Inc., 3330 Johnston Road, Smicksburg, PA 16256, permit renewal for the continued operation and restoration of a bituminous surface mine in Grant Township, **Indiana County**, affecting 112.0 acres. Receiving streams: UNTs to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 24, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

61090103 and NPDES Permit No. PA0258784. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Commencement, operation and restoration of a bituminous surface strip operation in Irwin Township, **Venango County** affecting 58.5 acres. Receiving streams: Two UNTs to North Branch Slippery Rock Creek to Slippery Rock Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 21, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17030108 and NPDES No. PA0243507. Larry D. Baumgardner Coal Company, Inc. (P. O. Box 186, Lanse, PA 16849), permit renewal for the continued operation and restoration of a bituminous surface mine in Woodward and Decatur Townships, **Clearfield County**, affecting 176.0 acres. Receiving streams: North Branch and Wall Run to Upper Morgan Run to Clearfield Creek to West Branch Susquehanna River, classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 21, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35840205R5. The Ransom Quarry Co., Inc., (1001 Underwood Road, Olyphant, PA 18447), renewal of an existing anthracite coal refuse reprocessing and anthracite surface mine operation in Olyphant and Throop Boroughs, **Lackawanna County** affecting 161.0 acres, receiving stream: none. Application received August 20, 2009.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>Table 2</i>		
	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

6478NC4 and NPDES No. PA0121606. David H. Martin Excavating, Inc., 4961 Cumberland Highway, Chambersburg, PA 17202-9655, renewal of NPDES permit in Antrim Township, **Franklin County**. Receiving streams: UNTs to/and Muddy Run, classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received August 5, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

02850301. LaFarge North America, Inc. (5160 Main Street, Whitehall, PA 18052). Renewal application for reclamation only of a large noncoal surface mine, located in West Mifflin Borough, **Allegheny County**, affecting 68.2 acres. Receiving stream: Lewis Run, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received August 24, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

8073SM1C9 and NPDES Permit No. PA0614602. Highway Materials, Inc., (1750 Walton Road, Blue Bell, PA 19422), correction to an existing quarry operation for a boundary correction and to update NPDES Permit for discharge of treated mine drainage in Marlborough Town-

ship, **Montgomery County** affecting 80.9 (increase from 75.9) acres, receiving stream: Unami Creek, classified for the following use: HQ-TSF. Application received August 21, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

EA40-012. Eastern Middle Anthracite Region Recovery, Inc. (EMARR), 25 Jaycee Drive, Hazleton, PA 18202. Hazle Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a passive wetland treatment system proposed in and along Black Creek (CWF). The project will divert and treat water from the Black Creek with the purpose of approving water quality within the Black Creek Watershed. The project is located approximately 0.5 mile east of where Black Creek intersects with SR 0940 (Hazleton, PA Quadrangle Latitude: 40° 58' 39"; Longitude: 75° 58' 04").

EA54-018. Schuylkill Headwaters Association, P. O. Box 1385, Pottsville, PA 17901, in Blythe Township, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an abandoned mine discharge (AMD) passive wetland treatment system proposed in and along Silver Creek (CWF). The purpose of the project is to treat and reduce AMD loadings discharging from the Silver Creek mine outfall to restore the water quality of the Silver Creek Watershed. The project is located approximately 0.5 mile north of SR 0209 along TR T-748 Pine Road (Pottsville, PA Quadrangle Latitude: 40° 43' 41"; Longitude: 76° 07' 22").

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

E06-630: Ralph Weaver/Weaver Property, 2030 Old Lancaster Pike, Sinking Spring, PA 19608, Spring Township, **Berks County**, United States Army Corps of Engineers, Baltimore District.

To stabilize 450.0-feet of a UNT to Little Muddy Creek (TSF) by constructing a low flow channel and a vegetated floodplain bench, and creating a stilling basin at the outlet of an existing 42.0-inch RCP culvert pipe and (Sinking Spring, PA Quadrangle N: 2.5 inches; W: 4.8 inches, Latitude: 40° 15' 51"; Longitude: 76° 2' 1") in Spring Township, Berks County.

E05-353: Department of Transportation, Engineering District 9-0, 1620 North Juniata Street, Holidaysburg, PA 16648, Bedford Township, **Bedford County**, United States Army Corps of Engineers, Baltimore District.

To extend and maintain an existing open bottom arch culvert 12 feet having a clear span of 18.0 feet, a minimum underclearance of 9.0 feet, a skew of 75.0° and a total length of 91.8 feet within a UNT to Raystown Branch Juniata River (WWF). The proposed activities will result in 0.07 acre permanent impact to a PEM wetland and 0.02 acre temporary impact to a PEM wetland. The purpose of the project is to add a turn lane along SR 0030 at the intersection with SR 0056 (Bedford, PA Quadrangle Latitude: 40° 2' 34"; Longitude: 78° 32' 21", North: 8.8 inches; West: 7.1 inches) in Bedford Township, Bedford County. The applicant is required to provide a minimum of 0.07 acre replacement wetlands, and has proposed to replace the wetlands at the Huntingdon Advanced Wetland Compensation site.

E22-549: Consolidated Scrap Resources, Inc, Benjamin Abrams; 1616 North Cameron Street, P. O. Box 1761, Harrisburg PA 17105; Harrisburg City, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain 900.0 linear feet of 10.0-foot high stacked concrete EcoBlock wall in the floodway of Paxton Creek (Harrisburg West, PA Quadrangle N: 5.5"; W: 0.8", Latitude: 40° 16' 41.7"; Longitude: 76° 52' 53.8" Beginning, N: 4.8"; W: 0.8", Latitude: 40° 16' 33"; Longitude: 76° 52' 49.4" Ending) for the purpose of stabilizing erosion in Harrisburg City, Dauphin County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-525. Bellefonte Borough, 236 West Main Street, Bellefonte, PA 16823. Talleyrand Park, in Bellefonte, PA, **Centre County**, United States Army Corps of Engineers,

Baltimore District (Bellefonte, PA Quadrangle Latitude: 40° 54' 41"; Longitude: 77° 47' 12").

To construct and maintain: 1) a 30-foot clear span steel-beam concrete-deck pedestrian bridge with associated concrete footers, 40 cubic yards of clean fill, approach ramps and a 3.25 foot underclearance; 2) temporary cofferdams on each side of the stream to build the abutments; and 3) Talleyrand Park pedestrian improvements; such as, concrete walkways, special open cell block paving, 8-foot diameter fountain, site lighting, benches, and native vegetation, located next to the Big Spring Building in Talleyrand Park. This project proposes to permanently impact 30 linear feet of Big Spring Outfall and temporary impact of 60 linear feet for the cofferdam in a tributary to Spring Creek, which is classified as CWF.

E18-446. Bald Eagle Township Board of Supervisors, 12 Fairpoint Road, Mill Hall, PA 17751. Water Obstruction and Encroachment Joint Permit, in Bald Eagle Township, **Clinton County**, United States Army Corps of Engineers, Susquehanna River Basin District (Mill Hall, PA Quadrangle N: 41° 06' 52"; W: 77° 27' 14").

To construct and maintain a recreational park area in the floodway of Fishing Creek (HQ-CWF). The applicant proposes to construct two 24-foot by 30-foot by 9-foot open picnic pavilions with concrete pads at grade. There will be a 1,080 square foot gravel parking area, 10-foot by 10-foot at-grade concrete pad and 60 linear feet of rip rap bank stabilization along Fishing Creek. All excavation material will be removed from the site and disposed of outside of the 100-year floodplain. This project is located 1,700 feet east of the intersection of SR 150 and SR 2015, Country Club Lane (Mill Hall, PA Quadrangle N: 41° 06' 52"; W: 77° 27' 14") in Bald Eagle Township, Clinton County. This project proposes to have a minimal impact to Fishing Creek, which is designated a HQ-CWF, and does not propose to impact any jurisdictional wetlands.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1619. Eastman Chemical Resins, Inc., State Highway 837, West Elizabeth, PA 15088-0567. To operate and maintain the existing barge facility in Jefferson Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Glassport, PA Quadrangle N: 3.0 inches; W: 3.5 inches, Latitude: 40° 15' 57.8"; Longitude: 79° 54' 1.7"). The applicant proposes to operate and maintain the existing barge loading/unloading facility (originally constructed under Permit No. 10717) in the channel and along the left bank of the Monongahela River (WWF) located at River Mile 23.7, just downstream from Lock and Dam No. 3.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-452, Gigliotti Holdings, LP, 11279 Perry Highway, Suite 509, Wexford, PA 15090. Weatherburn Heights Subdivision, in Middlesex Township, **Butler County**, United States Army Corps of Engineers, Pittsburgh District (Valencia, PA Quadrangle N: 40° 41' 57"; W: 79° 57' 25.6").

The applicant proposes to construct a residential subdivision involving to construct and maintain:

- 1) an approximately 700-foot entrance road parallel to a UNT Glade Run (Watercourse WC-1) portions of which encroach in the floodway (50-foot TOB),
- 2) a sanitary sewer line crossing of UNT Glade Run (Watercourse WC-1) by open trenching,
- 3) a sanitary sewer line crossing of UNT Glade Run (Watercourse WC-4) by open trenching,
- 4) a sanitary sewer line crossing of UNT Glade Run (Watercourse WC-5) by open trenching,
- 5) a water line crossing of UNT Glade Run (Watercourse WC-3) by open trenching,
- 6) a water line crossing of UNT Glade Run (Watercourse WC-1) by open trenching,
- 7) sanitary sewer lines and water lines running parallel and within 25 feet of UNTs Glade Run for a total length of approximately 656 feet, and
- 8) associated stormwater outfalls to UNTs Glade Run and wetlands.

UNTs Glade Run are classified as a WWF.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D07-083EA. Hollidaysburg Borough Authority, 400 Blair Street, Hollidaysburg, PA 16648, Juniata Township, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To rehabilitate Muleshoe Reservoir across Blair Run (TSF) to meet current Dam Safety requirements. The dam is located at a point on the Cresson, PA Quadrangle Latitude: 40° 25' 55"; Longitude: -78° 31' 14" Proposed dam rehabilitation will permanently impact 0.05-acre of PEM wetland and 45 lineal feet of Blair Run. Construction will necessitate temporary impacts to 0.02-acre of PEM wetland and 30 lineal feet of Blair Run. The applicant is required to provide a minimum of 0.05-acre of replacement wetland.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0064335 (Industrial Waste)	Gulf Oil Limited Partnership 275 Washington Street Suite 300 Newton, MA 02458-1646	Luzerne County Pittston Township	Collins Creek 05A	Y
PA0070009 (Sewage)	Little Washington Wastewater Company, d/b/a Suburban Wastewater Company 762 West Lancaster Avenue Bryn Mawr, PA 19010 formerly Cove Village Community Trust and Leisure Equities Corporation	Schuylkill County North Union Township	Catawissa Creek 5E	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0114049 (Sewage)	Municipal Authority of Lewis Township Lewis Township WWTP P. O. Box 51 Millmont, PA 17845	Union County Lewis Township	Cold Run TSF	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0022306 Sewage	Brownsville Municipal Authority P. O. Box 330 Brownsville, PA 15417-0330	Fayette County Brownsville Borough	Dunlap Creek	Y
PA0031330 Sewage	Brownsville Area School District 1025 Lewis Street Brownsville, PA 15417	Fayette County Redstone Township	UNT of Dunlap Creek	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0222721	Squaw Valley Woodlands STP Byron Center Road Emlenton, PA 16373	Butler County Allegheny Township	UNTs to Carrs Run 16-G	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No. PA0010944, Industrial Waste, **Glenn Springs Holdings, Inc.**, 5005 LBJ Freeway, Suite 1350, Dallas, TX 75244-6119. This proposed facility is located in Lower Pottsgrove Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated groundwater from a facility known as Occidental chemical, located at 375 Armand Hammer Boulevard into the Schuylkill River by means of intermittent swale in Watershed 3D.

NPDES Permit No. PA0012327, Industrial Waste, **County of Bucks Department of Public Works**, 55 East Court Street, Doylestown, PA 18901. This proposed facility is located in Nockamixon Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from a facility known as hidden Valley Landfill into Gallows Run (Outfall 001 and MP 101) and a UNT to Gallows Run (MP 102) in Watershed 2D.

NPDES Permit No. PA0042641, Sewage, **Department of Conservation and Natural Resources**, 2808 Three Mile Road, Perkasio, PA 18944-2065. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage serving Nockamixon State Park to a UNT of Tohickon Creek in Watershed 2D.

NPDES Permit No. PA0058785, Sewage, **Gregory and Marion Gans**, 196 Springton Road, Glenmoore, PA 19343. This proposed facility is located in West Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage to a UNT to Culbertson Run in Watershed 3H.

NPDES Permit No. PA0244503, Sewage, **Bruce Shepherd**, 1009 Telegraph Road, Coatesville, PA 19320. This proposed facility is located in West Caln Township, **Chester County**.

Description of Proposed Action/Activity: Issuance of an NPDES permit to discharge 500 gpd of treated sewage from a small flow treatment plant serving a single-family home located at 191 Creamery Road to a UNT of West Branch of Brandywine Creek in Watershed 3H.

NPDES Permit No. PA0244511, Sewage, **Bruce Shepherd**, 1009 Telegraph Road, Coatesville, PA 19320. This proposed facility is located in West Caln Township, **Chester County**.

Description of Proposed Action/Activity: Issuance of an NPDES permit to discharge 500 gpd of treated sewage from a small flow treatment plant serving a single-family home located 177 Creamery Road to a UNT of West Branch of Brandywine Creek in Watershed 3H.

NPDES Permit No. PA0244490, Sewage, **Bruce Shepherd**, 1009 Telegraph Road, Coatesville, PA 19320. This proposed facility is located in West Caln Township, **Chester County**.

Description of Proposed Action/Activity: Issuance of an NPDES permit to discharge 500 gpd of treated sewage from a small flow treatment plant serving a single-family home located at 171 Creamery Road to a UNT of West Branch of Brandywine Creek in Watershed 3H.

NPDES Permit No. PA0057819, Sewage, **New Hanover Township Authority**, 2900 Fagleysville Road, Gilbertsville, PA 19525. This proposed facility is located in New Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated wastewater from the facility into Swamp Creek in Watershed 3E.

NPDES Permit No. PA0051730, Sewage, **Philadelphia Country Club**, 1601 Spring Mill Road, Gladwyne, PA 19035. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the facility into Sawmill Creek in Watershed 3F—Lower Schuylkill.

NPDES Permit No. PA0045187, Sewage, **Richland Meadows, Inc.**, 232 Yankee Road, Lot 500, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the facility into the Dry Swale to Morgan Creek in Watershed 2D.

NPDES Permit No. PA0058343, Sewage, **Bedminster Municipal Authority**, 432 Elephant Road, Perkasio, PA 18944. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the facility into a UNT to Deep Run in Watershed 2D.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA0060071, Industrial Waste, **Sanofi Pasteur**, Discovery Drive, Swiftwater, PA 18370-0187. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Action: Issuance of an NPDES Permit for new 5-year term.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0100013, Sewage, **National Fuel Gas Distribution Corporation**, P. O. Box 2081, Erie, PA 16512. This proposed facility is located in Fairview, **Erie County**.

Description of Proposed Action/Activity: Issuance of an NPDES permit for the discharge of treated sewage from a sewage treatment plant serving a utility maintenance center. Treatment consists of a septic tank, surface sand filter, phosphorus treatment and chlorine tablet disinfection.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 2809404, Sewage, **Antrim Township Sewer Authority**, 10655 Antrim Church Road, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Permit approval for the upgrade of the existing aerobic sludge digestion aeration system, addition of a new aerobic digestion tank, and an aeration system and addition of a new solar sludge drier system.

WQM Permit No. 3609202, CAFO, **Arlin Benner, Yippee Farms**, 1103 Iron Bridge Road, Mount Joy, PA 17552. This proposed facility is located in Rapho Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction of manure storage and sand settling facilities.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 5309401, Sewerage, SIC 4952, **Galeton Borough Authority**, 4 Sherman Street, Galeton, PA 16922. This proposed facility will be located in the Borough of Galeton, **Potter County**.

Description of Proposed Action/Activity: Permit issued authorizing the Phase 2A Southwest Sewershed Separation and Improvement Project, which will rehabilitate or replace sewerage facilities south of Pine Creek.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 2608201, Industrial Waste, **Shallenberger Construction, Inc.**, 2611 Memorial Boulevard, Connellsville, PA 15425. This proposed facility is located in German Township, **Fayette County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of an industrial waste treatment facility.

WQM Permit No. 5608405, Sewerage, **Rox Coal, Inc.**, P. O. Box 260, Friedens, PA 15541. This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a small flow sewage treatment plant.

WQM Permit No. 0209405, Sewerage, **Neville Township**, 5050 Grand Avenue, Pittsburgh, PA 15225. This proposed facility is located in Neville Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a replacement sanitary force main.

WQM Permit No. 6372404-A1, Sewerage, **Carroll Township Authority**, P. O. Box 661, Donora, PA 15033. This existing facility is located in Carroll Township, **Washington County**.

Description of Proposed Action/Activity: Permit amendment issuance to modify existing Victory Hill and Valley Inn Pump Station.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. WQG028319, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a permit to construct a sanitary sewer extension project serving existing homes in the Young Road/Scenic Crest Area. The construction will include a new, sanitary sewer line, laterals and a sewage pump station. The sanitary wastewater will ultimately be disposed of by the Erie Wastewater Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI01 0907021	Solebury Partners and Logan Square Condominium Association 2005 South Easton Road Doylestown, PA 18901	Bucks	Solebury Township	Aquetong Creek HQ-CWF
PAI01 0908014	Milford Township P. O. Box 86 Spinnerstown, PA 18968	Bucks	Milford Township	Unami Creek HQ-TSF
PAI01 0909006	Hager Development Company, Inc. P. O. Box 26767 Elkins Park, PA 19027	Bucks	Tinicum Township	Tinicum Creek EV
PAI01 1508065	Daniel K. Stoudt 3892 Coventryville Road Coventryville, PA 19465	Chester	East Nantmeal Township	UNT to Beaver Run EV

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI024804003(1)	Nic Zawarski and Sons Development, Inc. 1441 Linden Street Bethlehem, PA 18018	Northampton	Forks Township	Bushkill Creek HQ-CWF, MF
PAI024808021	Easton Suburban Water Authority 3700 Hartley Avenue P. O. Box 3819 Easton, PA 18043	Northampton	Palmer Township	Bushkill Creek HQ-CWF, MF

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Armstrong County Conservation District: Armsdale Administration Building, Suite B-2, 124 Armsdale Road, Kittanning, PA 16201, (724) 548-3425.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI050309001	Borough of Apollo P. O. Box 306 Apollo, PA 15613	Armstrong	Apollo Borough	Kiskiminetas River WWF

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water / Use</i>
PAI062709001	State Correctional Institution Department General Services 18th and Herr Streets Harrisburg, PA 17120	Forest	Jenks Township	Scott Run HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)

PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Warminster Township Bucks County	PAG200 0909062	Andrew Good 496 Ivy Street Warminster, PA 18974	Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG200 0904147-R	Judd Builders/Developers 1750 Walton Road Blue Bell, PA 19422	UNT Little Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG200 0908102	Peruzzi Limited Family Partnership 165 Lincoln Highway Fairless Hills, PA 19030	West Branch Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG200 0904126-R	Stanton Properties, LLC 339 Armwell Road Building C Hillsborough, NJ 08844	UNT Pleasant Spring Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG200 0904087-1	St. Mary Medical Center 1201 Langhorne-Newtown Road Langhorne, PA 19047	Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG200 2309012	James Panetta 2 Lee Boulevard Frazer, PA 19355	Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marcus Hook Borough Lower Chichester Township Delaware County	PAG200 2304019-R	Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Delaware River Basin WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG200 4605047-1	GlaxoSmithKline Pharmaceuticals Mail Code UW 2106 709 Swedeland Road King of Prussia, PA 19406	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water / Use*

*Contact Office &
Phone No.*

Hatfield Township Montgomery County	PAG200 4608122	2801 Township Line Road Association 2701 Renaissance Boulevard King of Prussia, PA 19406	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Trappe Borough Montgomery County	PAG200 4607143	2801 Township Line Road Association 2701 Renaissance Boulevard King of Prussia, PA 19406	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG200 4609010	Trefoil Properties, Inc. 1690 Sumneytown Pike Suite 240 Lansdale, PA 19446	Little Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109020	The Presbytery of Philadelphia 2200 Locust Street Philadelphia, PA 19103	Tacony Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109025	Knights of Pythias Greenwood Cemetery Company 1600 Kongens Gade St. Thomas, VI 00802	Tookany/Tacony- Frankford Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Jessup Borough Lackawanna County	PAG2003509014	David DeCampli PPL Electric Utilities Corporation 2 North Ninth Street Genn 5 Allentown, PA 18101	Tributary to Lackawanna River CWF, MF	Lackawanna County Conservation District (570) 281-9495
Bethlehem Township Northampton County	PAG2004809004	Wagner Enterprises, LTD P. O. Box 3154 Easton, PA 18043-3154	Lehigh River WWF, MF	Northampton County Conservation District (610) 746-1971
Allen Township Northampton County	PAG2004804008R	Jaindl Land Company David Jaindl 3150 Coffeetown Road Orefield, PA 18069-2511 and The Atlantic Companies Brett Owing 25A Hanover Road Suite 310 Florham, NJ 07932-1425	Dry Run CWF, MF Catasauqua Creek CWF, MF	Northampton County Conservation District (610) 746-1971
City of Scranton Lackawanna County	Mark S. Goldsmith Wal-Mart Store, Inc.	2001 SE 10th Street Bentonville, AR 72716-0550	Lackawanna River Basin CWF	Lackawanna County Conservation District (570) 281-9495
City of Reading Berks County	PAG2000609027	William Heim City of Reading Police Department 815 Washington Street Reading, PA 19601	Schuylkill River WWF, MF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water / Use*

*Contact Office &
Phone No.*

Exeter Township Berks County	PAG2000609031	Louis Gambone Lorane Road Partners LP 700 West Germantown Pike East Norriton, PA 19403	UNT, Antietam Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Ferguson Township Centre County	PAG2001409005	Daniel Sahakian Hillside Farm Estates 477 East Beaver Avenue State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Scott Township Columbia County	PAG2001909005	Paul Gardner, Sr. Gardner Gas, Inc./Land Development 500 North Poplar Street Berwick, PA 18603	UNT to North Branch of Susquehanna River CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
City of Williamsport Lycoming County	PAG2004109007	William Nichols 1500 West Third Street Williamsport, PA 17701	West Branch of Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Brighton Township Beaver County	PAG2000409005	Ronald W. Wolf Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15273	Fourmile Run WWF	Beaver County Conservation District (724) 378-1701
Peters Township Washington County	PAG2006309017	Peters Township 610 East McMurray Road McMurray, PA 15317	Brush Run WWF	Washington County Conservation District (724) 228-6774
South Strabane Township Washington County	PAG2006309021	Sam's Real Estate Business Trust 2001 South East 10th Street Bentonville, AR 72716	Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Cranberry Township Butler County	PAG2001008007	Pittsburgh Lifetime Care Community 100 Norman Drive Cranberry Township, PA 16066	UNT Brush Creek WWF	Butler County Conservation District (724) 284-5270

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water / Use*

*Contact Office &
Phone No.*

Boggs Township Centre County	PAR234815	CCDA Waters, LLC 217 Aqua Penn Drive Milesburg, PA 16841	Bald Eagle Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
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*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water / Use*

*Contact Office &
Phone No.*

City of DuBois
Clearfield County

PAR214835

DuBrook, Inc.
P. O. Box 388
DuBois, PA 15801

Beaver Run
CWF
and
Sandy Lick Creek
TSF

Northcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3666

General Permit Type—PAG-4

*Facility Location:
Municipality &
County*

Permit No.

*Applicant Name &
Address*

*Receiving
Water / Use*

*Contact Office &
Phone No.*

Milford Township
Bucks County

PAG040126

Glen Nash
1845 Klimes Mill Road
Quakertown, PA 19851

Hazelbach Creek
Watershed
3E

Southeast Regional Office
2 East Main Street
Norristown, PA 19401
(484) 250-5970

Londonderry
Township
Dauphin County

PAG043891

Bright Hope Fellowship
BIC Church
345 North Deodate Road
Middletown, PA 17057

UNT Lynch Run
TSF
7G

DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

*Northeast Region: Water Supply Management Program
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

Permit No. 2350016, Operations Permit, Public Water Supply.

Applicant	Mt. Pennbrook, Inc. P. O. Box 974 Moscow, PA 18444
Borough or Township	Madison Township
County	Lackawanna
Type of Facility	PWS
Consulting Engineer	N/A
Permit to Operate Issued	August 24, 2009

Permit No. 3540057, Operations Permit, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Borough or Township	East and North Union Townships
County	Schuylkill
Type of Facility	PWS
Consulting Engineer	N/A
Permit to Operate Issued	August 24, 2009

Permit No. 3391012, Operations Permit, Public Water Supply.

Applicant	Chernay Printing, Inc. 7483 South Main Street Coopersburg, PA 18036
Borough or Township	Upper Saucon Township
County	Lehigh
Type of Facility	PWS
Consulting Engineer	N/A

Permit to Operate August 27, 2009
Issued

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0609506 MA, Minor Amendment, Public Water Supply.

Applicant **Aqua Pennsylvania**
Municipality Marion Township
County **Berks**
Type of Facility New softening facilities at the existing Stonecroft Village treatment building.

Consulting Engineer William A. LaDieu
CET Engineering Services
1240 North Mountain Road
Harrisburg, PA 17112

Permit to Construct August 25, 2009
Issued

Permit No. 2109502 MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Upper Allen Township
County **Cumberland**
Type of Facility Installation of a 36-inch diameter by 120-foot chlorine contact pipe.

Consulting Engineer Steven Metzler, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct August 20, 2009
Issued

Permit No. 2109503 MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Upper Allen Township
County **Cumberland**
Type of Facility Installation of a 36-inch diameter by 140-foot contact pipe.

Consulting Engineer Steven Metzler, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct August 20, 2009
Issued

Permit No. 6709505 MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Newberry Township
County **York**
Type of Facility Installation of a 36-inch diameter by 60-foot chlorine contact pipe.

Consulting Engineer Steven Metzler, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct August 20, 2009
Issued

Permit No. 6709506 MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Newberry Township
County **York**
Type of Facility Installation of a 24-inch diameter by 95-foot chlorine contact pipe.

Consulting Engineer Steven Metzler, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct August 20, 2009
Issued

Operations Permit issued to **Creek View Mobile Home Community**, 7210001, Upper Frankford Township, **Cumberland County** on August 28, 2009, for the operation of facilities approved under Construction Permit No. 7210001.

Operations Permit issued to **Arden Diller**, 7280071, Antrim Township, **Franklin County** on August 26, 2009, for the operation of facilities approved under Construction Permit No. 2807503.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. MA-1893501—Operation, Public Water Supply.

Applicant **Central Clinton County Water Filtration Authority**
Borough or Township Wayne Township
County **Clinton**

Responsible Official Jack D. Peters, Chairperson
Central Clinton County Water
Filtration Authority
70 Filtration Drive
Lock Haven, PA 17745

Type of Facility Public Water Supply—Operation

Consulting Engineer David M. Swisher, P. E.
HRG, Inc.
474 Windmere Drive
Suite 100
State College, PA 16801

Permit Issued Date August 31, 2009

Description of Action Addition of sodium permanganate and polyaluminum chloride.

Permit No. MA-1795501—Operation, Public Water Supply.

Applicant **Total Environmental Solutions, Inc.**
Borough or Township Sandy Township
County **Clearfield**

Responsible Official William Schoening
Total Environmental Solutions,
Inc.
906 Beaver Drive
Dubois, PA 15801

Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date August 31, 2009
 Description of Action Additional piping and valves are to be used to increase the contact time of water from Well N-23 with potassium permanganate.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0409505, Public Water Supply.

Applicant **Municipal Water Authority of Aliquippa**
 160 Hopewell Avenue
 Aliquippa, PA 15001
 Borough or Township Hopewell and Raccoon Townships
 County **Beaver**
 Type of Facility First Alley booster pump station and Raccoon booster pump station
 Consulting Engineer Widmer Engineering, Inc.
 806 Lincoln Place
 Beaver Falls, PA 15010
 Permit to Construct Issued August 27, 2009

Permit No. 0209515, Public Water Supply.

Applicant **Pittsburgh Water and Sewer Authority**
 1200 Penn Avenue
 2nd Floor
 Pittsburgh, PA 15222-4204
 Borough or Township City of Pittsburgh
 County **Allegheny**
 Type of Facility Herron Hill water storage tank
 Consulting Engineer
 Permit to Construct Issued August 31, 2009

Permit No. 2609505MA, Minor Amendment, Public Water Supply.

Applicant **North Fayette County Municipal Authority**
 1634 University Drive
 P. O. Box 368
 Dunbar, PA 15431
 Borough or Township Lower Tyrone Township
 County **Fayette**
 Type of Facility Lower Tyrone Township water storage tank
 Consulting Engineer Widmer Engineering
 225 West Crawford Avenue
 Connellsville, PA 15425
 Permit to Construct Issued August 27, 2009

Permit No. 0209510MA, Minor Amendment, Public Water Supply.

Applicant **Borough of Sewickley Water Authority**
 P. O. Box 190
 601 Thorn Street
 Sewickley, PA 15143

Borough or Township Edgeworth Borough
 County **Allegheny**
 Type of Facility Sewickley and Edgeworth interconnection
 Consulting Engineer KLH Engineers, Inc.
 5173 Campbells Run Road
 Pittsburgh, PA 15205
 Permit to Construct Issued August 4, 2009

Permit No. 0409506MA, Minor Amendment, Public Water Supply.

Applicant **Beaver Falls Municipal Authority**
 1425 8th Avenue
 P. O. Box 400
 Beaver Falls, PA 15010
 Borough or Township City of Rochester
 County **Beaver**
 Type of Facility Hill Street water storage tank
 Consulting Engineer World International Testing, Inc.
 2228 Sunset Boulevard
 Suite One
 Steubenville, OH 43952
 Permit to Construct Issued August 31, 2009

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Southwest Regional Office, Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Center Township	Center Township	Beaver County
Township	224 Center Grange Road Aliquippa, PA 15001	

Plan Description: The approved plan provides for construction of a 400 gpd single-residence sewage treatment plant to serve the Louise Loncar single-family home. The property is located at 203 Simonfield Road, Center Township, Beaver County. The proposed discharge point is a UNT to Poorhouse Run, classified as a WWF. Any required NPDES Permits or WQM Permits must be obtained in the name of the applicant as appropriate. The Department of Environmental Protection's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Vulcan Materials Company, formerly York Lintel and Cast Stone, Inc., Oxford Township, **Adams County**. Herbert, Rowland, and Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Vulcan Materials Company, 875 Oxford Avenue, Hanover, PA 17331, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Safe Harbor Former Incinerator Site, Conestoga Township, **Lancaster County**. NTH Consultants, 444 Creamery Way, Suite 100, Exton, PA 19341, on behalf of Safe Harbor Water Power Corporation, 1 Powerhouse Road, Conestoga, PA 17516, submitted a Final Report concerning remediation of site soils contaminated with

metals and PAHs associated with an abandoned incinerator. The report is intended to document remediation of the site to meet the Nonresidential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Eastern Industries, Inc., Wyalusing Township, **Bradford County**. Pennsylvania Tectonics, 826 Main Street, Peckville, PA 18452 on behalf of Eastern Industries, Inc., Route 347, Clifford, PA 18421 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel and used motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Joseph Bellanca Estate, Muncy Township, **Lycoming County**. United Environmental, 86 Hillside Drive, Drums, PA 18222 on behalf of Michael Collins, McNerney, Page, Vanderlin & Hall, P. O. Box 7, Williamsport, PA 17703 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Trinity Ind Soil (Former Trinity Industries Site), City of Butler, **Butler County**. Civil and Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of the Community Development Corporation of Butler County, 112 Woody Drive, Butler, PA 16001 has submitted a Final Report concerning remediation of site soil contaminated with iron. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concen-

tration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Midas Residence, 529 East Ridge Street, Lansford Borough, **Carbon County**. Jeffrey Wynn, Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518 submitted a Final Report, on behalf of his client, David Midas, 529 East Ridge Street, Lansford, PA 18232, concerning the remediation of soil found to have been impacted by No. 2 fuel oil due to a release that occurred during a fuel oil delivery as the result of an accidental overfill of a 275-gallon aboveground storage tank. The report documented attainment of the Statewide Health Standard and was approved on August 26, 2009.

70 Hilton Street Property, Williams Township, **Northampton County**. David Fennimore and George Seidman, Earth Data Northeast, Inc., Whiteland Technology Center, 924 Springdale Drive, Exton, PA 19341 submitted a Final Report, on behalf of their client, Quantico Associates, Ltd., 50 Hilton Street, Easton, PA 18042, concerning soils sampled because of historical site operations, including foundry operations and manufacturing at the property. The report documented attainment of the Nonresidential Statewide Health Standard for soils and was approved on August 21, 2009.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Station Mall, Altoona City, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Joseph Grappone, Grappone Law Office, 411 A Logan Boulevard, Altoona, PA 16602, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with metals, PAHs and VOCs. The combined report demonstrated attainment of the Nonresidential Statewide

Health and Site-Specific Standards and was approved by the Department of Environmental Protection on August 28, 2009.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former Eureka Packaging Plant, City of Williamsport, **Lycoming County**. Alternative Environmental Solutions, 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602 on behalf of Henry Perciballi, Gunga Enterprises, LLC, 429 Market Street, Williamsport, PA 17701 has submitted a Final Report concerning remediation of site groundwater contaminated with tetrachloroethylene (PCE) and Trichloroethylene (TCE). The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on August 24, 2009.

RESIDUAL WASTE GENERAL PERMITS

Permits Renewed under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

General Permit No. WMGR028NC001A. Glenn O. Hawbaker, 711 East College Avenue, Bellefonte, PA 16823. Permit for the beneficial use of baghouse fines as an aggregate in hot-mix asphalt at the Spring Township, **Centre County** facility. The permit was issued by NCRO on August 19, 2009.

Persons interested in reviewing the general permit may contact Lisa Houser, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3752. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit No. WMGR028NC001C. Glenn O. Hawbaker, 711 East College Avenue, Bellefonte, PA 16823. Permit for the beneficial use of baghouse fines as an aggregate in hot-mix asphalt at the Loyalsock Township, **Lycoming County** facility. The permit was issued by NCRO on August 19, 2009.

Persons interested in reviewing the general permit may contact Lisa Houser, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3752. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit No. WMGR028NC001B. Glenn O. Hawbaker, 711 East College Avenue, Bellefonte, PA 16823. Permit for the beneficial use of baghouse fines as an aggregate in hot-mix asphalt at the Sandy Township, **Clearfield County** facility. The permit was issued by NCRO on August 19, 2009.

Persons interested in reviewing the general permit may contact Lisa Houser, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3752. TDD users may

contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

GP1-46-0238: Saint Charles Borromeo Seminary (100 East Wynnewood Road, Wynnewood, PA 19106) on August 6, 2009, to operate two small natural gas No. 2 oil-fired combustion units in Lower Merion Township, **Delaware County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

GP-42-221A: McKean County Joint Venture Group—Hedgehog Compressor Station (Hedgehog Lane, Bradford, PA 16701) on August 21, 2009, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) at facility in Bradford Township, **McKean County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

15-0122A: Kennett Square Specialties, LLC (556 East South Street, P. O. Box 652, Kennett Square, PA 19348) on August 27, 2009, for installation of a spent shiitake mushroom growth media fired boiler rated at 9.6 mmBtu/hr (boiler), at the Kennett Square Specialties mushroom substrate and spawn production facility, located at 556 East South Street, Kennett Township, **Chester County**. The permittee will take limitations to keep emission of NO_x and VOC below the major facility threshold levels. The Plan Approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0024E: McNeil Consumer Healthcare (7050 Camp Hill Road, Fort Washington, PA 19034-2210) on August 28, 2009, for re-activation of a Glatt 60 Fluid Bed Processor in Whitemarsh Township, **Montgomery County**. This process has a potential to emit less than one tpy of VOC and less than 1 tpy of PM₁₀. The facility shall continue to remain a synthetic minor. The plan approval includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2531.

40-328-006: UGI Development Co. (P. O. Box 224, 390 Route 11, Hunlock Creek, PA 18621) on August 21,

2009, to construct and operate two GE LM 000 PC Sprint combustion turbines (50MW), two supplementary fired HRSG, two selective catalytic reduction systems, two CO Oxidation Catalyst, and one 49.9 mmBtu/hr boiler at their facility in Hunlock Township, **Luzerne County**.

40-399-065: Vita-Line Products, Inc. (1111 North Park Drive, Hazleton, PA 18202) on August 27, 2009, to install a new dog food manufacturing operation at their facility to be in Hazle Township, **Luzerne County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

36-05008F: Tyson Foods, Inc. (P. O. Box 1156, 403 South Custer Avenue, New Holland, PA 17557-0901) on August 24, 2009, to construct a vegetable oil poultry fryer controlled by a wet scrubber in Earl Township, **Lancaster County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-399-038D: Global Tungsten and Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on August 25, 2009, to modify control devices for 11 existing tungsten wire drawing capstan annealing heads and ten existing wire annealing ovens in department (012), at their North Towanda Township, **Bradford County** facility.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-053E: Urick Foundry Co. (1501 Cherry Street, Erie, PA 16502) on August 21, 2009, for modernization of the sand cooling operation including three new finishing/sand handling baghouses in Erie City, **Erie County**. This is a State-only facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-00003G: CraftMaster Manufacturing, Inc. (P. O. Box 311, Shiner Road, Towanda, PA 18848) on August 24, 2009, to extend the deadline for the required PM stack test of the Line 1 Refiner Reject and Line 1 Second Stage Dryers/Felter Operations and associated Felter Scrubber (Control ID D41). The required testing shall be completed on or before November 30, 2009, at their facility in Wysox Township, **Bradford County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

36-05138: Quality Custom Kitchens, Inc. (125 Peters Road, New Holland, PA 17557-9205) on August 25, 2009, to operate a wooden cabinet manufacturing facility in Earl Township, **Lancaster County**. This Title V operating permit was administratively amended to incorporate Plan Approval No. 36-05138A. This is Revision No. 1.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Thomas Huynh, Chief, (215) 685-9476.

V05-004: Temple University, Main Campus (1009 West Montgomery Avenue, Philadelphia, PA 19122) on August 13, 2009, to operate a college, university, and professional school in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include the following: five 41.24—63.9 mmBtu/hr boilers firing natural-gas (NG) or No. 6 fuel oil; one 20.92 mmBtu/hr boiler firing NG; three 86.8—91.3 mmBtu/hr boilers firing NG or No. 2 fuel oil; three 9.996 mmBtu/hr boilers firing NG or No. 2 fuel oil; two 2.396—2.887 mmBtu/hr boilers firing NG or No. 2 fuel oil; 11 boilers or water heaters, each rated 2.0 mmBtu/hr or less, firing NG; ten 2,250 hp standby generators firing natural gas; 12 emergency generators, each rated 170 kw or less, firing NG; 32 emergency generators, each rated 1,825 kw or less, firing No. 2 fuel oil; and one 110 hp fire pump firing No. 2 fuel oil.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

36-03019: Flury Foundry Co. (1160 Elizabeth Avenue, Lancaster, PA 17601-4364) on August 26, 2009, for the foundry operations in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit.

36-05148: Country Value Woodworks, LLC (2302 Beaver Valley Pike, New Providence, PA 17560-9610) on August 24, 2009, for operation of a wood furniture finishing operation in Providence Township, **Lancaster County**.

38-05023: Pennsy Supply, Inc. (1 Clear Spring Road, Annville, PA 17003) on August 26, 2009, for operation of their Prescott Asphalt Plant in South Lebanon Township, **Lebanon County**. This is a renewal of the State-only operating permit.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00006: U.S. Steel Corporation—Fairless Works (Fairless Hills, PA 19030) on August 25, 2009, is a Title V facility in Falls Township, **Bucks County**. This Title V Permit was revised to change the contact information for the responsible official and the permit contact name in both Sections A and C of the Title V Permit. The revisions and notification of these changes to the Title V Permit were made in accordance with 25 Pa. Code § 127.450. The changes to the Title V Permit do not result in an increase of emissions, and comments will only be taken on the changes covered in this notice.

23-00001: Sunoco, Inc.—R and M (Delaware Avenue and Green Street, P.O. Box 426, Marcus Hook, PA 19061-0426) on August 25, 2009, to incorporate plan

approval 23-0001Z into the Title V Operating Permit in Marcus Hook Borough, **Delaware County**. New sources added were numbered 031—034. Additionally, this administrative amendment provides operation flexibility for the loading of cyclohexane and benzene using the currently permitted control devices. Potentially, the amount of benzene loading will increase 220%, while emissions will decrease by almost 11 tons. The administrative amendment has been issued in accordance with 25 Pa. Code § 127.450. The Title V Operating Permit contains all applicable regulatory requirements.

23-00009: The Boeing Co.—Integrated Defense Systems—Rotorcraft (P.O. Box 16858, Philadelphia, PA 19142) on August 27, 2009, for the major (Title V) facility in Ridley Township, **Delaware County**. The Administrative Amendment incorporates the conditions of Plan Approval 23-0009E and also incorporates RFD No. 827.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

ARP-06-05024: RRI Energy Mid-Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 16317-5817) on August 24, 2009, for the three bituminous coal firing boilers in Cumru Township, **Berks County**. This is a revision to the Title V operating permit.

67-03071: PA State Pet Memorial at Golden Lake (210 Andersontown Road, Mechanicsburg, PA 17055-6023) on August 20, 2009, to operate their animal crematories in Monaghan Township, **York County**. This State-only operating permit was administratively amended to incorporate Plan Approval 67-03071A. This is Revision No. 2.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

43-00284: Xaloy Inc.—FR Gross Co., Inc. (P.O. Box 368, 40 Council Avenue, Wheatland, PA 16161-0368) on August 25, 2009, to revoke their State-only operating permit for the operation of the chrome plating facility in the Borough of Wheatland, **Mercer County**. This operating permit was revoked because of a permanent shutdown of operations at the facility.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P.S. §§ 4001—4015); the

Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

63901701 and NPDES Permit No. PA0001147, Consolidation Coal Company, Consol Energy, Inc., CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317, to renew the permit for the Montour No. 4 Mine—Hahn Treatment Facility in Cecil Township, **Washington County** and related NPDES permit. No additional discharges. Application received April 3, 2009. Permit issued August 21, 2009.

30841317. Consol Pennsylvania Coal Company, LLC, P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323, to revise the permit for the Enlow Fork Mine, in East Finley Township, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (Claysville, PA Quadrangle N: 8.98 inches; W: 2.02 inches, N: 9.21 inches; W: 1.47 inches). This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize the stream restoration to Templeton Fork to alleviate subsidence pooling impacts from longwall mining. The permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project. Application received March 11, 2008. Permit issued August 27, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56940101 and NPDES No. PA0212768. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 205.9 acres. Receiving streams: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 15, 2009. Permit issued August 25, 2009.

05753004 and NPDES No. PA0124869. Forcey Coal, Inc., P. O. Box 225, Madera, PA 16661, permit renewal for the continued operation and restoration of a bituminous surface mine in Broad Top and Carbon Townships, **Bedford and Huntingdon Counties**, affecting 222.1 acres. Receiving streams: UNTs to/and Coal Bank Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 23, 2009. Permit issued August 27, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33-08-13 and NPDES Permit No. PA0258709. P. and N. Coal Co., Inc., P. O. Box 332, Punxsutawney, PA 15767, proposal to enter into a Government Financed Reclamation Construction Contract on a 14.6 acre site in Winslow Township, **Jefferson County**. The proposal includes total reclamation of 14.4 acres of abandoned mine lands while remining 9.2 acres of coal incidental and necessary to the reclamation activities. Receiving streams: UNT "B" to Fehley Run. Application received February 24, 2009. Contract issued August 21, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17820141. SRP Coal Company, Inc., R. R. 1, Box 180, Penfield, PA 15849, renewal for reclamation only of a bituminous surface mine in Pike and Lawrence Townships, **Clearfield County**, affecting 108 acres. Permit issued August 19, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54830107R5 and NPDES Permit No. PA0613568. Selkirk Enterprises, LLC, 10 Gilberton Road, Gilberton, PA 17934, renewal of an existing anthracite surface mine and coal refuse reprocessing operation in Branch and Reilly Townships, **Schuylkill County**, affecting 1,211.99 acres. Receiving stream: West Branch Schuylkill River. Application received January 9, 2009. Renewal issued August 24, 2009.

54930201R3. Wheelabrator Culm Services, Inc., 4 Liberty Lane West, Hampton, NH 03842, renewal of an existing anthracite coal refuse reprocessing for reclamation activities only in Mahanoy Township, **Schuylkill County**, affecting 117.0 acres. Receiving stream: none. Application received January 14, 2009. Renewal issued August 24, 2009.

40763208R4. Popple Brothers Coal Company, P. O. Box 126, Duryea, PA 18642, renewal of an existing anthracite coal refuse reprocessing, disposal and coal processing operation in Duryea and Old Forge Boroughs and Ransom Township, **Luzerne and Lackawanna Counties**, affecting 130.0 acres. Receiving stream: none. Application received August 11, 2006. Renewal issued August 25, 2009.

40840203R5. Mammoth Anthracite, LLC, P. O. Box Q, Milnesville, PA 18239, renewal of an existing anthracite surface mine and coal refuse reprocessing operation in Hazle Township, **Luzerne County**, affecting 101.0 acres. Receiving stream: none. Application received September 22, 2008. Renewal issued August 25, 2009.

19980101R2. Kovalchick Coal Company, P. O. Box 251, Mt. Carmel, PA 17851, renewal of an existing anthracite surface mine operation in Conyngham Township, **Columbia County**, affecting 215.0 acres. Receiving stream: none. Application received November 18, 2008. Renewal issued August 26, 2009.

54921601R3. Gale Mining Company, 1441 Oak Road, Pottsville, PA 17901, renewal of an existing anthracite coal processing facility in Rush Township, **Schuylkill County**, affecting 10.3 acres. Receiving stream: none. Application received February 4, 2009. Renewal issued August 26, 2009.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

6475SM10C and NPDES Permit No. PA0224391. Pennsy Supply, Inc., P. O. Box 3331, Harrisburg, PA 17105, renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation in Jenkins Township, **Luzerne County**, receiving stream: Lampblack Creek. Application received June 10, 2009. Renewal issued August 24, 2009.

6374SM1C6 and NPDES Permit No. PA0224383. Hanson Aggregates Pennsylvania, Inc., 7660 Imperial Way, Suite A103, Allentown, PA 18195, renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation in Hemlock and Madison Town-

ships, **Columbia County**. Receiving streams: UNT to Little Fishing Creek. Application received June 25, 2009. Renewal issued August 24, 2009.

7775SM4C3 and NPDES Permit No. PA0594563. Lehigh Cement Company, 537 Evansville Road, Fleetwood, PA 19522, renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation in Oley Township, **Berks County**. Receiving stream: UNT to Manatawny Creek. Application received July 13, 2009. Renewal issued August 24, 2009.

64030301C4 and NPDES Permit No. PA0224332. Middle Creek Quarry, Inc., 2893A Owego Turnpike, Hawley, PA 18428, renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation in Palmyra Township, **Wayne County**, receiving stream: Middle Creek. Application received June 29, 2009. Renewal issued August 25, 2009.

ABANDONED MINE RECLAMATION

ACT 181 ONLY

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Primacy Bond Forfeiture Contract Awarded	PBF 56763022.1
Location	Elk Lick Township Somerset County, PA
Description	Act 181 Surface Mine Reclamation Project Delta Mining, Inc. Maust Site SMP No. 56763022.1
Contractor	Earth Shapers, LLC 266 Scout Dam Road Ebensburg, PA 15931
Amount	\$13,423.95
Date of Award	August 20, 2009

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

03094001. Wampum Hardware, 636 Paden Road, New Galilee, PA 16141, blasting activity permit issued for the Dominion Gas Rural Valley Compressor Station Project, located in Cowanshannock Township, **Armstrong County**. The duration of blasting is expected to be 4 months. Blasting permit issued August 24, 2009.

02094006. USA South Hills Landfill, 3100 Hill Road, South Park Township, PA 15127, blasting activity permit issued for the landfill cell expansion, located in South Park Township, **Allegheny County**. The duration of blasting is expected to be 6 months. Blasting permit issued August 24, 2009.

26094005. Amerikohl Mining, Inc., 1384 SR 711, Stahlstown, PA 15687, blasting activity permit issued for remediation at the Ridec Surface Mine (SMP No. 26040105), located in Dunbar Township, **Fayette County**. The duration of blasting is expected to be 5 months. Blasting permit issued August 25, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

59094006. Conquest Seismic Services, Inc., 504 IST Center, Horseheads, NY 14845, seismic exploration blasting located in Charleston, Covington, Delmar, Duncan, Richmond and Putnam Townships, **Tioga County**. Permit issued August 25, 2009. Permit expires April 15, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

36094158. Warren's Excavating & Drilling, Inc., P. O. Box 214, Myerstown, PA 17067, construction blasting for a commercial building on Quarry Road in Upper Leacock Township, **Lancaster County** with an expiration date of August 13, 2010. Permit issued August 24, 2009.

35094001. John Brainard, 2978 SR 2073, Kingsley, PA 18826, construction blasting for a House Foundation in Dalton Borough, **Lackawanna County** with an expiration date of October 31, 2009. Permit issued August 26, 2009.

35094002. Latona Trucking & Excavating, 620 South Main Street, Pittston, PA 18640 and ORICA USA, 971 Mountain Road, Bloomsburg, PA 17815, construction blasting for the St. Mary's Bridge Project in the City of Scranton, **Lackawanna County** with an expiration date of August 1, 2010. Permit issued August 26, 2009.

06094110. Explosive Services, Inc., 7 Pine Street, Bethany, PA 18431, construction blasting at Perry Township Recreation Area in Perry Township, **Berks County** with an expiration date of August 25, 2010. Permit issued August 26, 2009.

40094114. Douglas Explosives, Inc., P. O. Box 77, Philipsburg, PA 16866, construction blasting for Warrior Run Verizon Tower City in Rice and Hanover Townships, **Luzerne County** with an expiration date of December 30, 2009. Permit issued August 26, 2009.

49094102. Kesco, Inc., P. O. Box 95, Adrian, PA 16210, construction blasting for Mt. Carmel Area Waste Water Treatment Plant in Mt. Carmel Township, **Northumberland County** with an expiration date of January 31, 2010. Permit issued August 26, 2009.

06094111. Brubacher Excavating, Inc., P. O. Box 528, Bowmansville, PA 17507, construction blasting for Tilden Township Sanitary Sewage Treatment Plant in Tilden Township, **Berks County** with an expiration date of December 27, 2009. Permit issued August 27, 2009.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the

applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E45-524. Henryville Flyfishers, 2119 Long Beach Boulevard, Ship Bottom, NJ 08008, Paradise Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a stream restoration project along 2.5 miles of Paradise Creek (HQ-CWF) with work consisting of: 1) removing approximately 0 to 4 feet of accumulated silt and sediment from 14 pools at various locations within the 2.5 mile reach; 2) stabilizing the stream banks with boulders at various locations within the 2.5 mile reach; 3) installing two boulder deflectors along the left bank immediately downstream of the SR 0191 bridge; and 4) maintaining the existing stone dams and fish enhancement structures located within the 2.5 mile reach. The project will also temporarily impact 0.01 acre of wetlands for the purpose of constructing a temporary construction access road. The project begins approximately 0.5 mile northwest of the intersection of SR 0715 and SR 0191 and continues south along Paradise Creek to approximately 1.5 miles southeast of the intersection of

SR 0715 and SR 0191 (East Stroudsburg, PA Quadrangle Latitude: 41° 6' 3" / 41° 4' 52"; Longitude: -75° 14' 57" / -75° 13' 48") in Paradise Township, Monroe County.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

E29-096: Dublin Township, 1366 Cole Road, Hustontown, PA 17229, Dublin Township, **Fulton County**, United States Army Corps of Engineers, Baltimore District.

To: 1) remove an existing low flow concrete bridge with 12 27.0-inch diameter corrugated metal pipes having a width of 12.3 feet, a length of 35.0 feet, and a skew of 90.0°; and 2) construct and maintain a single span prestressed concrete adjacent box beam bridge having a clear span of 80.5 feet, a width of 225.3 feet, a skew of 85.0° and a minimum underclearance of 7.0 feet carrying T-452 (Boy Scout Road) over Little Augwick Creek (TSF) in Dublin Township, Fulton County (McConnellsburg, PA Quadrangle N: 16.5 inches; W: 12.7 inches, Latitude: 40° 05' 23"; Longitude: 77° 57' 52"). The project will permanently impact 0.05 acre of PSS wetland and temporarily impact an additional 0.05 acre of PSS wetland at the proposed bridge location. The permittee is required to provide a minimum of 0.08 acre of replacement wetlands, and has proposed to compensate for the impact at the Whitsel Advance Wetland Compensation Site.

E21-407: Lower Allen Township, 2233 Gettysburg Road, Camp Hill, PA 17011, Cedar Spring Run Trailhead, Lower Allen Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 6-foot wide by 1.5-foot high trail, and associated improvements in a channel beneath a railroad culvert and the floodway of a UNT to Cedar Run (CWF) for the purpose of providing access and a trail for area residents located at a point downstream of Gettysburg Road (Lemoyne, PA Quadrangle N: 18.69 inches; W: 6.30 inches, Latitude: 40° 13' 40.5"; Longitude: 76° 55' 12.4") in Lower Allen Township, Cumberland County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-524. Tobias Z. Hostetler, 437 Bower Hollow Road, Aaronsburg, PA 16820. New house driveway, in Haines Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Millheim, PA Quadrangle Latitude: 40° 53' 53.22"; Longitude -77° 25' 17.03").

To construct and maintain a 5-foot diameter, 20-foot long culvert, set 1-foot into the streambed with the associated stone headwalls in a UNT to Pine Creek for the purpose of making a single residence driveway, located 2,400 feet down Bower Hollow Road from SR 45. The project proposes to permanently impact 20 linear feet of the UNT to Pine Creek, which is an Exceptional Quality waterway. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E55-223. David Mull, 32 Cinder Lane, Selinsgrove, PA 17870. Mull Pavilion, in Centre Township, **Snyder County**, United States Army Corps of Engineers, Baltimore District (Middleburg, PA Quadrangle Latitude: 40° 51' 32.5"; Longitude: 77° 01' 41.2").

To construct, operate and maintain a 20-foot by 40-foot open sided picnic pavilion. Associated with the pavilion

will be a 24-foot by 44-foot concrete slab poured under the pavilion that will not exceed the existing ground surface elevations as noted on the plans. Also included in this permit is the removal and installation of 100 linear feet of 8-inch drain tile and the removal and installation of a 30-inch cross culvert. This project is located in the floodway of Penns Creek, 1 mile on Walnut Acres Road from SR 104 turn left on to Kerr Road and travel 3/10 of a mile to the site. This permit was issued under Section 105.13(e) "Small Projects."

E60-201. Bucknell University Facilities, Geiger Physical Plant, Lewisburg, PA 17837. Bucknell Landing, in Lewisburg Borough, **Union County**, United States Army Corps of Engineers, Baltimore District (Lewisburg, PA Quadrangle Latitude: 40° 57' 19"; Longitude: -76° 52' 41").

To construct and maintain a riverside park called Bucknell Landing consisting of: 1) 740 square feet of synthetic floating and removable kayak/canoe dock with pile anchors and a hinged gangway; 2) removal of 690 cubic yards of earthen fill to create a 4,000 square foot articulated concrete block boat ramp; 3) a 20-foot by 20-foot open-sided pavilion on a concrete slab; 4) 485 square feet of stairway; 5) a 5-foot wide by 620 linear foot low impact at-grade walking trail; 6) 1,885 square feet of rain garden; 7) 2,400 horizontal square feet of an entry plaza; 8) a 5-foot wide by 740 linear foot paved at-grade low-impact trail; 9) secured picnic tables, signs, trash receptacles, bike racks; 10) Bucknell light standards and call box; 11) 6,570 square feet of at-grade gravel access drive; 12) council ring discovery area made of stone seats, fire ring and gravel path; and 13) a steel pipe rack to keep the dock anchored securely out of the river during the winter months, all of which is located in the right 100-year floodway of the West Branch Susquehanna River between the intersection of Snake Road and Seventh Street with River Road. This permit was issued under Section 105.13(e) "Small Projects."

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E32-488. SFAM, LLC, 349 North Fourth Street, Indiana, PA 15701.

To construct a culvert and fill in White Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Indiana, PA Quadrangle N: 22.0 inches; W: 9.8 inches, Latitude: 40° 37' 15"; Longitude: 79° 11' 45"). To construct and maintain a steel beam bridge with a steel grate deck; a span of 20 inches, a width of 23 feet, and an underclearance of approximately 5 feet; with precast concrete block abutments, to construct and maintain a storm water outfall; to place and maintain fill in the floodway of an existing tributary to McCarthy Run (CWF); to maintain existing fill in the floodway of a UNT to McCarthy Run, all for the purpose of expanding an existing automobile dealership. The project is approximately 570 feet west of the intersection of Ben Franklin Road and Philadelphia Street.

E32-491. Department of Transportation, District 10-0, 2550 Oakdale Avenue, P. O. Box 429, Indiana, PA 15701. To remove two single-span bridges in Clymer Borough, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District.

1. To remove the existing SR 403 two lane, 48 feet wide, single span bridge having a total length of 115 feet, and having an underclearance of 6.4 feet; construct and maintain on the same alignment a

two lane 45.3 feet wide, single-span bridge having a total length of 115 feet with an underclearance of 6.1 feet; construct and remove a temporary bridge and causeways located downstream of the bridge, and construct and maintain associated stormwater outfalls over and in Two Lick Creek (TSF) with a drainage area of 41.4 square miles. This bridge is located in the center of Clymer Borough (Clymer, PA Quadrangle N: 8.1 inches; W: 1.8 inches, Latitude: 40° 40' 9"; Longitude: 79° 0' 48").

2. To remove the existing SR 403 two lane, 45.3 feet wide, single-span bridge having a total length of 38 feet, and having an underclearance of 6.6 feet; and construct and maintain on the same alignment a two lane 51.4 feet wide, single-span bridge having a total length of 51.4 feet with an underclearance of 6.7 feet; construct and remove temporary causeways; construct and maintain 90 feet of stream mitigation; and construct and maintain associated stormwater outfalls over and in Dixon Run (CWF) with a drainage area of 10.7 square miles. This Bridge is located in the western portion of Clymer Borough (Clymer, PA Quadrangle N: 8.2 inches; W: 2.2 inches, Latitude: 40° 40' 11"; Longitude: 79° 0' 53").

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D46-148EA. Upper Merion Township, 175 West Valley Forge Road, King of Prussia, PA 19406. Upper Merion Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

Project proposes to breach and remove Upper Dam across Gulph Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,200 feet of stream channel. The dam is located approximately 1,300 feet east of the intersection of SR 320 and SR 3031 (Gulph Road) (Norristown, PA Quadrangle Latitude: 40° 04' 10"; Longitude: -75° 22' 08").

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D40-242A. Department of Environmental Protection—Bureau of Waterways Engineering, P. O. Box 8460, Harrisburg, PA 17105-8460. To modify, operate, and maintain the Toby Creek Impounding Basin Dam across Toby Creek (TSF), impacting approximately 1,000 linear feet of stream, for the purpose of rehabilitating the existing facility to assure compliance with Department of Environmental Protection Regulations and increase spillway capacity (Kingston, PA Quadrangle N: 4.4 inches; W: 2.5 inches) in Pringle Borough, **Luzerne County**.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market

Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and

of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

08/18/2009

ESCGP-1 No.: ESX09-111-0005

Applicant Name: Chief Oil and Gas, LLC

Contact Person: Michael D. Hritz

Address: 6051 Wallace Road Extension, Suite 210

City: Wexford State: PA Zip Code: 15090

County: Somerset Township(s): Middlecreek

Receiving Stream(s) and Classifications: UNT to Middle Creek and UN and UNT to Lost Creek, HQ, Other

08/18/2009

ESCGP-1 No.: ESX09-125-0027

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): South Franklin

Receiving Stream(s) and Classifications: Bane Creek, Other

08/19/09

ESCGP-1 No.: ESX09-129-0018

Applicant Name: Rex Energy Corporation

Contact Person: William Ottaviani

Address: 476 Rolling Ridge Drive, Suite 300

City: State College State: PA Zip Code: 16801

County: Westmoreland Township(s): Derry

Receiving Stream(s) and Classifications: McCune Run, Union Run, and Stony Run, Other, TSF, WWF and CWF, respectively

08/19/09

ESCGP-1 No.: ESX09-125-0028

Applicant Name: MarkWest Liberty Midstream and Resources

Contact Person: Brian Rayburn

Address: 100 Plaza Drive, Suite 102

City: Atlasburg State: PA Zip Code: 15004

County: Washington Township(s): Mt. Pleasant

Receiving Stream(s) and Classifications: Cross Creek and UNT to Cross Creek, HQ

08/19/09

ESCGP-1 No.: ESX09-059-0032

Applicant Name: EQT Production Company

Contact Person: Hanna E. McCoy

Address: 225 North Shore Drive, 3rd Floor

City: Pittsburgh State: PA Zip Code: 15212

County: Greene Township(s): Morris

Receiving Stream(s) and Classifications: Browns Creek/Patterson Creek, HQ

Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 #

ESX09-117-0009

Applicant Name

Seneca Resources Corporation

Contact Person

Doug Kepler

Address

51 Zents Boulevard

City, State, Zip

Brookville, PA 15825

County

Tioga

Township(s)

Covington Township

Receiving Stream(s) and Classification(s)

UNT to Elk Run

ESCGP-1 #	58-09-802
Applicant Name	Cabot Oil and Gas Corporation
Contact Person	Jeffrey Keim
Address	900 Lee Street East, Suite 1100
City, State, Zip	Charleston, WV 25301
County	Susquehanna
Township(s)	Dimock Township
Receiving Stream(s) and Classification(s)	West Branch of Meshoppen Creek
ESCGP-1 #	ESX09-015-0026
Applicant Name	Chief Oil and Gas, LLC
Contact Person	Michael Hritz
Address	6051 Wallace Road Extension, Suite 210
City, State, Zip	Wexford, PA 15090
County	Bradford
Township(s)	West Burlington Township
Receiving Stream(s) and Classification(s)	UNT to North Branch Towanda Creek
ESCGP-1 #	ESX09-033-0004
Applicant Name	EXCO—North Coast Energy, Inc.
Contact Person	Joel Heiser
Address	1 GOJO Plaza, Suite 325
City, State, Zip	Akron, OH 44311-1057
County	Clearfield
Township(s)	Brady Township
Receiving Stream(s) and Classification(s)	UNT to Beaver Run and UNT to East Branch of Mahoning Creek
ESCGP-1 #	ESX09-117-0011
Applicant Name	Seneca Resources Corporation
Contact Person	Doug Kepler
Address	51 Zents Boulevard
City, State, Zip	Brookville, PA 15825
County	Tioga
Township(s)	Covington, Charleston, Richmond Townships
Receiving Stream(s) and Classification(s)	UNT to Elk Run, Elk Run, UNT to Tioga River, UNT to Catlin Hollow
ESCGP-1 #	ESX09-015-0024
Applicant Name	Chesapeake Appalachia, LLC
Contact Person	Eric Haskins/Tal Oden
Address	P. O. Box 18496
City, State, Zip	Oklahoma City, OK 73154-0496
County	Bradford
Township(s)	Terry Township
Receiving Stream(s) and Classification(s)	Baillets Pond which drains to Sugar Run
ESCGP-1 #	ESX09-081-0005
Applicant Name	Range Resources—Appalachia, LLC
Contact Person	Stephen Rupert
Address	380 Southpointe Boulevard, Suite 300
City, State, Zip	Canonsburg, PA 15317
County	Lycoming
Township(s)	Cogan House Township
Receiving Stream(s) and Classification(s)	Hoagland Run
ESCGP-1 #	ESX09-117-0006
Applicant Name	Ultra Resources, Inc.
Contact Person	W. R. Picquet
Address	304 Inverness Way South, Suite 295
City, State, Zip	Englewood, CO 80112-5828
County	Tioga
Township(s)	Gaines Township
Receiving Stream(s) and Classification(s)	Lewis Run, Elk Run
ESCGP-1 #	58-09-802
Applicant Name	Cabot Oil and Gas Corp
Contact Person	Jeffrey Keim
Address	900 Lee Street East, Suite 1100
City, State, Zip	Charleston, WV 25301

County	Susquehanna
Township(s)	Dimock Township
Receiving Stream(s) and Classification(s)	Meshoppen Creek
ESCGP-1 #	08-09-818
Applicant Name	EOG Resources
Contact Person	Nathan Wells
Address	2039 Sixth Street
City, State, Zip	Indiana, PA 15701
County	Bradford
Township(s)	Springfield Township
Receiving Stream(s) and Classification(s)	Mill Creek, West Branch of Tomjack Creek, Sugar Creek, Susquehanna River
ESCGP-1 #	ESX09-069-0003
Applicant Name	EXCO—North Coast Energy, Inc.
Contact Person	Joel Heiser
Address	1 Gojo Plaza, Suite 325
City, State, Zip	Akron, OH 44311-1057
County	Lackawanna
Township(s)	Greenfield Township
Receiving Stream(s) and Classification(s)	Rush Brook to Lackawanna River and UNT South Branch Tunkhannock Creek
ESCGP-1 #	ESX09-069-0002
Applicant Name	EXCO—North Coast Energy, Inc.
Contact Person	Joel Heiser
Address	1 Gojo Plaza, Suite 325
City, State, Zip	Akron, OH 44311-1057
County	Lackawanna
Township(s)	Greenfield Township
Receiving Stream(s) and Classification(s)	UNT to Dundaff Creek
ESCGP-1 #	ESX09-069-0002
Applicant Name	EXCO—North Coast Energy, Inc.
Contact Person	Joel Heiser
Address	1 Gojo Plaza, Suite 325
City, State, Zip	Akron, OH 44311-1057
County	Lackawanna
Township(s)	Greenfield Township
Receiving Stream(s) and Classification(s)	UNT to Dundaff Creek
ESCGP-1 #	ESX09-033-0005
Applicant Name	Chief Oil and Gas, LLS
Contact Person	Michael Hritz
Address	6051 Wallace Road Ext., Suite 210
City, State, Zip	Wexford, PA 15090
County	Clearfield
Township(s)	Lawrence Township
Receiving Stream(s) and Classification(s)	Little Clearfield Creek
ESCGP-1 #	08-09-811
Applicant Name	Fortuna Energy, Inc.
Contact Person	Tracy Gregory
Address	337 Daniel Zenker Drive
City, State, Zip	Horseheads, NY 14845
County	Bradford
Township(s)	Troy Township
Receiving Stream(s) and Classification(s)	North Branch Towanda Creek
ESCGP-1 #	ESX09-015-0034
Applicant Name	East Resources, Inc.
Contact Person	William Fustos
Address	301 Brush Creek Road
City, State, Zip	Warrendale, PA 15086
County	Lycoming and Bradford
Township(s)	McNett; Canton, Troy, Armenia Township and Alba Borough
Receiving Stream(s) and Classification(s)	North Branch Towanda Creek

ESCGP-1 #	ESX-09-105-0003
Applicant Name	Dominion Transmission, Inc.
Contact Person	Kevin Zink
Address	5094 Route 349
City, State, Zip	Westfield, PA 16950
County	Potter
Township(s)	Harrison Township
Receiving Stream(s) and Classification(s)	UNT to North Branch of Cowanesque

SPECIAL NOTICES

DRINKING WATER STATE REVOLVING FUND SPECIAL NOTICE

Special Notice under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C. § 300f et seq.

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Wolfgang, Eugene H. Enterprises, Inc.	3426 Faye Drive Orefield, PA 18069	Lehigh

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Wolfgang, Eugene H. Enterprises, Inc. proposes modification of the existing community water system serving Ossie's Mobile Home Community to provide a replacement well and hydropneumatic tank. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the project for Categorical Exclusion.

[Pa.B. Doc. No. 09-1688. Filed for public inspection September 11, 2009, 9:00 a.m.]

Air Quality Technical Advisory Committee Meeting Cancellation

The September 24, 2009, meeting of the Air Quality Technical Advisory Committee (Committee) has been cancelled. The next meeting is scheduled for November 18, 2009, at 9:15 a.m., in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. Questions concerning the next scheduled meeting of the Committee can be directed to Arleen Shulman at (717) 772-3436 or ashulman@state.pa.us. The agenda and meeting materials for the November 18, 2009, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should

contact Yvette House at (717) 772-3436 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1689. Filed for public inspection September 11, 2009, 9:00 a.m.]

Bid Opportunity

BOGM 09-7, cleaning out and plugging four abandoned oil wells, (National Fuel Gas Corporation (c/o Matt Dubowski) Property), Warren City, Warren County. The principal items of work include cleaning out and plugging four abandoned oil wells, estimated to be 700 feet in depth, to the Department of Environmental Protection's specifications; preparing and restoring well sites; and mobilizing and demobilizing plugging equipment. This project issues on September 11, 2009, and bids will be opened on October 15, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1690. Filed for public inspection September 11, 2009, 9:00 a.m.]

PA Green Energy Works! Biogas; \$5 Million Funding Opportunity Available

On behalf of Governor Edward G. Rendell, Secretary John Hanger announces that on September 21, 2009, the Department of Environmental Protection (Department) will open a \$5 million solicitation for renewable energy projects for motivated businesses, local governments and nonprofit entities.

The program is administered by the Department, and funding is provided through the American Recovery and Reinvestment Act of 2009 (42 U.S.C.A. § 5301). This program provides funds to units of local and state government, Native American tribes, and territories to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions, and to create jobs and promote economic recovery.

For purposes of this financial assistance opportunity, eligible projects include the generation of electricity from

biological materials including, but not limited to, animal manures, septage, food processing wastes, and yard waste.

All projects must create jobs, be able to start work within 6 months, and be completed within 24 months and prior to April 30, 2012.

For grants under this solicitation, the following entities are eligible to apply: Corporations, partnerships, sole proprietorship, limited liability company, business trust, or other legal business entities; incorporated not for profit organizations that maintain 501(c)(3) status with the U.S. Internal Revenue Service and are also registered with the PA Bureau of Charitable Organizations; colleges or universities located within Pennsylvania; nonprofit corporations or associations whose purpose is the enhancement of economic conditions in their community; Pennsylvania municipalities or counties; municipal electric utilities; rural electric cooperatives; and municipal authorities. Direct recipients of ARRA-EECBG funds are not eligible to apply.

This is a competitive solicitation. Guidelines may be viewed at www.recovery.pa.gov. Applications must be submitted by means of the Environmental eGrants system at www.grants.dcnr.state.pa.us. Applications will be accepted from September 21, 2009, through October 23, 2009.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1691. Filed for public inspection September 11, 2009, 9:00 a.m.]

PA Green Energy Works! Combined Heat and Power; \$11 Million Funding Opportunity Available

On behalf of Governor Edward G. Rendell, Secretary John Hanger announces that on September 7, 2009, the Department of Environmental Protection (Department) will open an \$11 million solicitation for renewable energy projects for motivated businesses, local governments and nonprofit entities.

The program is administered by the Department, and funding is provided through the American Recovery and Reinvestment Act of 2009 (42 U.S.C.A. § 5301). This program provides funds to units of local and state government, Native American tribes, and territories to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions, and to create jobs and promote economic recovery.

For purposes of this financial assistance opportunity, eligible projects may include projects that use AEPS tier 1 eligible biomass (organic material from a plant that is grown for the purpose of producing electricity and any solid nonhazardous, cellulosic waste material such as waste pallets, crates and landscape or right-of-way tree trimmings or agricultural sources, including orchard tree crops, vineyards, grain, legumes, sugar and other crop by-products or residues) or natural gas for the sequential or simultaneous generation of electricity and useful thermal energy for industrial or commercial heating or cooling purposes in a single integrated system. All projects must have a projected thermal efficiency of at least 60%. For all projects, the sum of all usable thermal energy products must constitute at least 20% of the technology's

total usable output and the sum of all usable power must constitute at least 15% of the technology's total usable output.

All projects must create jobs, be able to start work within 6 months, and be completed within 24 months and prior to April 30, 2012.

For grants under this solicitation, the following entities are eligible to apply: Corporations, partnerships, sole proprietorship, limited liability company, business trust, or other legal business entities; incorporated not for profit organizations that maintain 501(c)(3) status with the U.S. Internal Revenue Service and are also registered with the PA Bureau of Charitable Organizations; colleges or universities located within Pennsylvania; nonprofit corporations or associations whose purpose is the enhancement of economic conditions in their community; Pennsylvania municipalities or counties; municipal electric utilities; rural electric cooperatives; and municipal authorities. Direct recipients of ARRA-EECBG funds are not eligible to apply.

This is a competitive solicitation. Guidelines may be viewed at www.recovery.pa.gov. Applications must be submitted by means of the Environmental eGrants system at www.grants.dcnr.state.pa.us. Applications will be accepted from September 7, 2009, through October 9, 2009.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1692. Filed for public inspection September 11, 2009, 9:00 a.m.]

Pennsylvania Sunshine Program Meeting Cancellation

The September 18, 2009, meeting of the Pennsylvania Sunshine Program is cancelled. The meeting will be rescheduled for later in the fall. The rescheduled meeting will be announced in the *Pennsylvania Bulletin*. Questions concerning the rescheduled meeting of the Pennsylvania Sunshine Program can be directed to Angela Rothrock at (717) 772-8911 SunshineComments@state.pa.us.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1693. Filed for public inspection September 11, 2009, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City 8-Hour Ozone Nonattainment Area; Public Hearing

On August 29, 2007, the Department of Environmental Protection (Department) submitted a State Implementation Plan (SIP) revision for the Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE 8-Hour Ozone Nonattainment Area (Philadelphia Nonattainment Area) to the U.S. Environmental Protection Agency (EPA) that included the 2002 Base Year Inventory and a Reasonable Further Progress (RFP) Demonstration. The values for stationary sources in the 2002 Base Year Inventory submitted on August 29, 2007, are incorrect because name changes were not fully incorporated into

the Department's databases, causing some facilities to be included multiple times during the inventory development. Therefore, the emissions estimated for 2002 were too high. Additionally, an error was found in the calculation formula for the projected area source values for 2008. These errors affect the calculations in the RFP Demonstration.

These SIP revisions correct the inventory values in the 2002 Base Year Inventory, and the calculations in the RFP Demonstration. The Department is seeking comment on the revisions to the 2002 Base Year Inventory and the RFP Demonstration for the Philadelphia Nonattainment Area. The proposals are available on the Department's web site at www.dep.state.pa.us (DEP keywords: Air Quality or Clean Air Plans) or through the contact persons listed as follows. Notice of the proposed SIP revisions will also be published in newspapers of general circulation in the affected region of the Commonwealth.

The Department will hold a public hearing to receive comments on the proposed SIP revisions, only if a request for a public hearing is received from a member of the public. A request for a public hearing must be received by 4 p.m. on Tuesday, October 27, 2009. If a request for a public hearing is received by 4 p.m. on Tuesday, October 27, 2009, the public hearing will be held on Thursday, October 29, 2009, at 1 p.m. at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA. If no request for public hearing is received by 4 p.m. on Tuesday, October 27, 2009, the hearing will be cancelled and notice of the cancellation will be published on Wednesday, October 28, 2009, at 12 p.m., on the Department's web site at www.depweb.state.pa.us (DEP keyword: Air Plans). Interested parties may also call (717) 787-9495 to find out if the hearing has been cancelled.

Persons wishing to request a public hearing or who wish to present testimony at a scheduled hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, yhouse@state.pa.us to reserve a time. The Department will consider a request to present testimony at a scheduled hearing to be a request for a public hearing. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimonies to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Yvette House at (717) 787-9495 or yhouse@state.pa.us. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Persons interested in these proposed SIP revisions are invited to submit written comments on the proposed SIP revisions. The Department must receive written comments no later than Friday, October 30, 2009. Written comments should be sent to the attention of Arleen Shulman, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or ashulman@state.pa.us. Use "RFP/2002 Base-Year Inventory SIP Revision" in the subject line.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1694. Filed for public inspection September 11, 2009, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$50,000 Birthday Cash '09 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$50,000 Birthday Cash '09.

2. *Price:* The price of a Pennsylvania \$50,000 Birthday Cash '09 instant lottery game ticket is \$5.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania \$50,000 Birthday Cash '09 instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania \$50,000 Birthday Cash '09 instant lottery game ticket will also contain a "Birthday Bonus" area.

(b) The prize play symbols and their captions located in the play area for "Game 1" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

(c) The play symbols and their captions located in the play area for "Game 2" are: Balloon symbol (BALLOON) and an X symbol (XXX).

(d) The play area for "Game 3" will contain a "YOUR SYMBOLS" area and a "LUCKY SYMBOLS" area. The play symbols and their captions located in the "YOUR SYMBOLS" area and the "LUCKY SYMBOLS" area are: Rocket symbol (RCKT), Ice Cream Cone symbol (ICEC), Noisemaker symbol (NOISE), Money Bag symbol (\$BAG), Bills symbol (BILLS), Stack Of Coins symbol (STACK), Bow symbol (BOW), Hat symbol (HAT), Party Favor symbol (FAVOR), Cake symbol (CAKE), Gift symbol (GIFT), Horn symbol (HORN), Cupcake symbol (CUPC), Music symbol (MUSIC), Dance symbol (DANCE), Confetti symbol (CNFTI) and a Candle symbol (CANDL).

(e) The prize play symbols and the play symbols and their captions located in the "Birthday Bonus" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS).

4. *Prize Symbols:*

(a) The play area for "Game 2" will contain a "PRIZE" area. The prize symbols and their captions located in the "PRIZE" area for "Game 2" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

(b) The play area for "Game 3" will contain six "Prize" areas. The prize symbols and their captions located in the six "Prize" areas for "Game 3" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in "Game 1" are: \$5, \$10, \$20, \$40, \$50, \$100, \$500 and \$50,000. The prizes that can be won in "Game 2" and "Game 3" are: \$5, \$10, \$20, \$40, \$50, \$100, \$500, \$1,000 and \$50,000. The prizes that can be won in the "Birthday Bonus" area are: \$5, \$10, \$20, \$40, \$50, \$100 and \$500. The player can win up to 8 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania \$50,000 Birthday Cash '09 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching prize play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching prize play symbols of \$500 (FIV HUN) in the play area, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with three matching prize play symbols of \$50⁰⁰ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with three matching prize play symbols of \$40⁰⁰ (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(6) Holders of tickets with three matching prize play symbols of \$20⁰⁰ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(7) Holders of tickets with three matching prize play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three matching prize play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50,000 (FTY THO) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$1,000 (ONE THO) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$500 (FIV HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$100 (ONE HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50⁰⁰ (FIFTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50.

(6) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$40⁰⁰ (FORTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$40.

(7) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$20⁰⁰ (TWENTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$10⁰⁰ (TEN DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$5⁰⁰ (FIV DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(6) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(7) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY

SYMBOLS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “Prize” area under the matching “YOUR SYMBOLS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets where any one of the “YOUR SYMBOLS” play symbols matches either of the “LUCKY SYMBOLS” play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “Prize” area under the matching “YOUR SYMBOLS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for the “Birthday Bonus” are:

(1) Holders of tickets with a prize play symbol of \$500 (FIV HUN) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$500.

(2) Holders of tickets with a prize play symbol of \$100 (ONE HUN) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$100.

(3) Holders of tickets with a prize play symbol of \$50⁰⁰ (FIFTY) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with a prize play symbol of \$40⁰⁰ (FORTY) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets with a prize play symbol of \$20⁰⁰ (TWENTY) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with a prize play symbol of \$10⁰⁰ (TEN DOL) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with a prize play symbol of \$5⁰⁰ (FIV DOL) in the “Birthday Bonus” area, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Birthday Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets</i>
\$5				\$5	30	320,000
	\$5			\$5	30	320,000
		\$5		\$5	37.50	256,000
			\$5	\$5	37.50	256,000
\$10				\$10	85.71	112,000
	\$10			\$10	85.71	112,000
		\$10		\$10	85.71	112,000
			\$10	\$10	100	96,000
\$5			\$5	\$10	100	96,000
			\$5 × 2	\$10	85.71	112,000
\$20				\$20	200	48,000
	\$20			\$20	200	48,000
		\$20		\$20	200	48,000
			\$20	\$20	300	32,000
\$10	\$5	\$5		\$20	200	48,000
\$10			\$5 × 2	\$20	200	48,000
			\$5 × 4	\$20	200	48,000
\$40				\$40	600	16,000
	\$40			\$40	600	16,000
		\$40		\$40	600	16,000
			\$40	\$40	600	16,000
\$20		\$20		\$40	600	16,000
			\$10 × 4	\$40	600	16,000
\$50				\$50	1,200	8,000
	\$50			\$50	1,200	8,000
		\$50		\$50	1,200	8,000
			\$50	\$50	1,200	8,000
\$5	\$20	\$20		\$50	1,200	8,000
\$10	\$10	\$10	\$10 × 2	\$50	1,200	8,000
\$20			\$5 × 6	\$50	1,200	8,000
			\$10 × 5	\$50	1,200	8,000
\$100				\$100	1,875	5,120
	\$100			\$100	2,000	4,800
		\$100		\$100	2,000	4,800
			\$100	\$100	2,000	4,800
\$10	\$20	\$20	\$10 × 5	\$100	2,000	4,800
\$20	\$20	\$20	\$20 × 2	\$100	2,000	4,800
\$50	\$50			\$100	2,000	4,800
			\$20 × 5	\$100	2,000	4,800
\$500				\$500	12,000	800
	\$500			\$500	12,000	800
		\$500		\$500	12,000	800
			\$500	\$500	12,000	800

<i>Birthday Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets</i>
			\$100 × 5	\$500	12,000	800
		\$1,000		\$1,000	30,000	320
			\$1,000	\$1,000	30,000	320
			\$500 × 2	\$1,000	40,000	240
	\$50,000			\$50,000	1,920,000	5
		\$50,000		\$50,000	960,000	10
			\$50,000	\$50,000	960,000	10

Game 1—Get 3 like amounts, win that amount.

Game 2—Get three “BALLOON” (BALLOON) symbols in a row, column or diagonal, win prize shown.

Game 3—When any of YOUR SYMBOLS match either LUCKY SYMBOL, win prize shown below the matching symbol.

Birthday Bonus—Reveal prize amount from \$5 to \$500 and win that prize.

Prizes, including the top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$50,000 Birthday Cash '09 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$50,000 Birthday Cash '09, prize money from winning Pennsylvania \$50,000 Birthday Cash '09 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$50,000 Birthday Cash '09 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$50,000 Birthday Cash '09 or through normal communications methods.

STEPHEN H. STETLER,
Secretary

[Pa.B. Doc. No. 09-1695. Filed for public inspection September 11, 2009, 9:00 a.m.]

Realty Transfer Tax Revised; 2008 Common Level Ratio Real Estate Valuation Factor

The following real estate valuation factor is based on sales data compiled by the State Tax Equalization Board (Board) in 2008. This factor is the mathematical reciprocal of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, this factor is applicable for

documents accepted from July 1, 2009, to June 30, 2010. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument. See 61 Pa. Code § 91.102 (relating to acceptance of documents).

<i>County</i>	<i>Revised Common Level Ratio Factor</i>
* Lawrence	1.19

* Adjusted by the Department of Revenue based on a Board's decision effective August 18, 2009, retroactive to July 1, 2009.

STEPHEN H. STETLER,
Secretary

[Pa.B. Doc. No. 09-1696. Filed for public inspection September 11, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations, which are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained at their web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
125-102	Pennsylvania Gaming Control Board Key Employees and Complimentary Services or Items	8/31/09	10/1/09

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
14-517	Department of Public Welfare Revisions to the Special Allowance for Supportive Services Requirements	8/31/09	10/1/09

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-1697. Filed for public inspection September 11, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Bethel Pointe Foundation

Bethel Pointe Foundation has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Bethel Pointe at Hill Farm Estate in Annville, PA. The initial filing was received on August 21, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1698. Filed for public inspection September 11, 2009, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Garvey Manor Nursing Home

Garvey Manor Nursing Home has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Our Ladies of The Alleghenies Residence in Hollidaysburg, PA. The initial filing was received on August 19, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each

written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1699. Filed for public inspection September 11, 2009, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Woodland Place

Woodland Place has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Woodland Place in Mercer, PA. The initial filing was received on August 24, 2009, and was made under the requirements set forth by the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1700. Filed for public inspection September 11, 2009, 9:00 a.m.]

Application for Approval of a Proposed Merger Between Century Reinsurance Company and Century Indemnity Insurance Company

Century Indemnity Insurance Company, a stock property insurance company, organized under the laws of the Commonwealth, has filed an application for approval to merge with Century Reinsurance Company, a Pennsylvania domiciled stock casualty insurance company, with Century Indemnity Insurance Company surviving the merger. The filing was made under the requirements set forth by the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413); 15 Pa.C.S. §§ 1921—1932; and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21404).

Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to

which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1701. Filed for public inspection September 11, 2009, 9:00 a.m.]

Capital BlueCross; Hospitalization Portion of Traditional Nongroup Individual Direct Pay Basic Hospitalization/Medical-Surgical/Major Medical Plan; Filing No. 09-MM; Rate Filing

On August 26, 2009, the Insurance Department (Department) received from Capital BlueCross a filing for a rate increase for the hospitalization portion of its Traditional Nongroup Individual Direct Pay Basic Hospitalization/Medical-Surgical/Major Medical Plan.

The company requests a 27.0% increase or about \$136.47 per contract per month on average. This will affect about 475 contractholders and will produce additional income of about \$777,879 annually. The requested effective date of the change is January 1, 2010.

Unless formal administrative action is taken prior to November 26, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to James Sabater, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jsabater@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1702. Filed for public inspection September 11, 2009, 9:00 a.m.]

Marc J. Finder, M. D.; Prehearing

Appeal of Marc J. Finder, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-08-017

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before October 1, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 12, 2009, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for October 29, 2009, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before October 27, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 14, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answers to petitions to intervene, if any shall be filed on or before October 28, 2009.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1703. Filed for public inspection September 11, 2009, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Derek and Yvette Brown; file no. 09-217-70736; AIG Preferred Insurance Company; Doc. No. PH09-06-027; October 7, 2009, 1 p.m.

Appeal of Allen Burke; file no. 09-216-71774; Nationwide Mutual Insurance Company; Doc. No. PH09-07-015; October 7, 2009, 9 a.m.

Appeal of Rose Dwyer; file no. 09-215-71885; Erie Insurance Exchange; Doc. No. PH09-08-015; October 8, 2009, 1 p.m.

Appeal of Marion Kamlatos; file no. 09-214-71948; Cumberland Insurance Company, Inc.; Doc. No. PH09-07-021; October 7, 2009, 2 p.m.

Appeal of Carla A. Slater; file no. 09-214-71150; Unitrin Direct Auto and Home Insurance; Doc. No. PH09-07-006; October 6, 2009, 2 p.m.

Appeal of Keisha D. Spruill; file no. 09-215-69949; Nationwide Mutual Insurance Company; Doc. No. PH09-06-024; October 7, 2009, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1704. Filed for public inspection September 11, 2009, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Lawrence E. and Robyn Feldman; file no. 09-217-70643; Great Northern Insurance Company; Doc. No. PH09-06-028; October 7, 2009, 11 a.m.

Appeal of Lori Ann Lucas; file no. 09-215-74112; Erie Insurance Exchange; Doc. No. PH09-08-013; October 8, 2009, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support

the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-1705. Filed for public inspection September 11, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by September 28, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2009-2126367. Santos E. Pineda, t/a Pineda Driving Services (129 Park Avenue, Quakertown, Bucks County, PA 18951)—persons, upon call or demand, in the Borough of Souderton, Montgomery County and the Boroughs of Quakertown, Sellersville, Perkasio and the Township of Richland, all in Bucks County.

A-2009-2127155. David R. Boyd, Jr. (1131 Rawlinsville Road, Willow Street, Lancaster County, PA 17584)—persons, in paratransit service, from points in the County of Lancaster, to points in Pennsylvania, and return.

A-2009-2127185. Paradise Transit, Inc. (131 East Gay Street, West Chester, Chester County, PA 19382)—a corporation of the Commonwealth—on schedule, within the Borough of West Chester, upon the following route: Beginning on West Rosedale Avenue heading west; thence turn left on South New Street and continue south; thence turn right on South Campus Drive going northwest; thence turn left onto Carey Drive going southwest; thence a pick up/drop off location at the intersection of Carey and South Campus Drives; thence continue on Carey Drive through South Campus Apartment Complex thence turn right back onto South Campus Drive heading southeast; thence turn left on South New Street going north; thence turn right on West Rosedale Avenue going east; thence turn right on South Matlack Street going southeast; thence turn left into the West Chester Commons Apartment Complex, West Chester Commons Drive, heading east; thence a pick up/drop off location at the intersection of West Chester Commons Drive and South Matlack Street; thence continue through the complex and head back on West Chester Commons Drive heading west; thence turn right on South Matlack Street going northwest; thence turn left on Rosedale Avenue going west; thence a pick up/drop off location at the intersection of Rosedale Avenue and South High Street; thence turn right on South High Street going north; thence a pick up/drop off location at the intersection of South High and Price Streets; thence turn right on East Market Street going northeast; thence a pick up/drop off location at the intersection of East Market and High Streets; thence continue on the route for two blocks until the next pick up/drop off location at the intersection of East Market and Matlack Streets; thence turn left on Matlack Street going north; thence turn left on East Gay Street going west; thence a pick up/drop off location at the intersection of South High and East Gay Streets; thence continue on said route for another block which leads to the next pick up/drop off location at the intersection of East Gay and Darlington Streets; thence turn left on North New Street going south; thence turn left on West Market Street going east; thence turn right on High Street going south; thence returning to the point of origin by means of West Rosedale Avenue. *Attorney:* Christopher J. Bailey, 882 South Matlack Street, Suite 101, West Chester, PA 19382.

A-2009-2127009. Call Jeff, LLC (134 Monticello Drive, Monroeville, Allegheny County, PA 15146), a limited liability company of the Commonwealth—for the right to begin to transport, as a common carrier, by motor vehicle, persons in call or demand service, in the Counties of Allegheny and Westmoreland. *Attorney:* William A. Buck, Esquire, 525 William Penn Place, 30th Floor, Pittsburgh, PA 15219.

A-2009-2127204. Khurshid Haque (309 Indigo Way, Allentown, Lehigh County, PA 18104)—persons, in paratransit service, from points in the Counties of Lehigh and Northampton, to points in Pennsylvania, and return.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under the application.

A-2009-2127620. John Elias Donton, t/a Schuylkill Moving Service (136 Chestnut Street, Cressona, Schuyl-

kill County, PA 17929)—household goods in use, from points in the County of Schuylkill, to points in Pennsylvania.

Application of the following for the approval of the right and privilege to *discontinue/abandon* operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-2009-2124838. Leon M. Brubacher (430 Pleasant Valley Road, Denver, PA 17517)—for the discontinuance of service and cancellation of his certificate for the transportation of persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Pompee Transport, Inc.; Doc. No. C-2009-2041317

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Pompee Transport, Inc. (respondent) is under suspension effective March 5, 2008, for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at P. O. Box 1892, Horsham, PA 19044.
3. That respondent was issued a Certificate of Public Convenience by this Commission on July 27, 2007, at A-00123841.
4. That respondent has failed to maintain evidence of Liability insurance and Cargo insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$250 and causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which: (1) cancels the Certificate of Public Convenience held by respondent at A-00123841 for failure to maintain evidence of current insurance on file with the Commission; (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint; (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration; and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Under 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations **and by paying the \$250 fine** proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

Complaint

Lehigh Valley Taxicab Co., Inc.
Last Known Address
1766 West Market Street
Bethlehem, PA 18018

*Pennsylvania Public Utility Commission v.
Re: Lehigh Valley Taxicab Co., Inc.
Docket No.: C-2009-2058197, A-00088477*

Respondent:

On June 26, 2009, the Bureau of Transportation and Safety instituted a Complaint against Lehigh Valley Taxicab Co., Inc., Respondent, for failure to maintain evidence of bodily injury and property damage liability insurance on file with this Commission, a violation of the Public Utility Code at 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

In accordance with 52 Pa. Code § 5.61, the Bureau of Transportation and Safety notified the Respondent that, unless the insurer files evidence of insurance with this Commission, and Respondent pays the proposed fine, an Answer to the Complaint must be filed within twenty (20) days of the date of service. The Notice further specified that, if Respondent failed to answer the Complaint within twenty (20) days, the Bureau of Transportation and Safety would request that the Commission cancel Respondent's Certificate of Public Convenience.

The Complaint could not be served on Respondent, Lehigh Valley Taxicab Co., Inc., and a physical check found no forwarding address or physical address for the Respondent. The Complaint was published in the *Pennsylvania Bulletin* on August 8, 2009. To date, more than twenty (20) days later, respondent has failed to file an

Answer to the Complaint and has failed to pay the fine and have its insurer file evidence of insurance with this Commission.

Therefore, the allegations in the Complaint are deemed to be admitted. The Complaint is hereby sustained and the Certificate of Public Convenience, issued to Respondent at A-00088477 is hereby canceled.

Respondent is assessed a fine of \$250 for failure to maintain evidence of insurance on file with this Commission as required at 52 Pa. Code § 32. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Furthermore, this Commission will request the Pennsylvania Department of Transportation to put an administrative hold on Respondent's vehicle registrations. Respondent will NOT be able to register any new vehicles or renew any existing vehicle registrations until all past due assessments are paid, all past due fines are paid, all insurance filings are up to date, and it holds an active Certificate of Public Convenience issued by this Commission.

This Secretarial Cancellation Letter will also be served on:

The Department of Revenue
Bureau of Audit Programs
Sales and Use Taxes
Tenth Floor, Strawberry Square
Harrisburg, PA 17128-1061

and on respondent's insurance carriers:

First Keystone Risk Retention Group, Inc.
4421 Aramingo Avenue
Philadelphia, PA 19124

Respondent is hereby notified to cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§ 1.1 et seq. and the regulations of the Commission, 52 Pa. Code §§ 1.1 et seq. In view of the cancellation of respondent's Certificate of Public Convenience, [he, she, it, they] [is, are] specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should Respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, Respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The Respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

If you believe that you have received this letter in error, you must write a letter stating the reasons you believe this letter is in error and requesting that it be rescinded within thirty (30) days of the date of this letter. The letter shall be sent to Secretary, PA Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,
JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1706. Filed for public inspection September 11, 2009, 9:00 a.m.]

Telecommunications

A-2009-2126965. Windstream Pennsylvania, LLC and AT&T Communications of Pennsylvania, LLC. Joint petition of Windstream Pennsylvania, LLC and AT&T Communications of Pennsylvania, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and AT&T Communications of Pennsylvania, LLC, by its counsel, filed on August 25, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due 10 days after the date of publication of this notice in the *Pennsylvania Bulletin*. Copies of the Windstream Pennsylvania, LLC and AT&T Communications of Pennsylvania, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1707. Filed for public inspection September 11, 2009, 9:00 a.m.]

Telecommunications

A-2009-2126951. Windstream Pennsylvania, LLC and TCG Pittsburgh. Joint petition of Windstream Pennsylvania, LLC and TCG Pittsburgh for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and TCG Pittsburgh, by its counsel, filed on August 25, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due 10 days after the date of publication of this notice in the *Pennsylvania Bulletin*. Copies of the Windstream Pennsylvania, LLC and TCG Pittsburgh joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-1708. Filed for public inspection September 11, 2009, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

October 14, 2009	Pamela Jonas (Purchase of Service)	1 p.m.
	Sheila A. Eberhardt (D) (Change of Option)	1 p.m.
October 21, 2009	Robert A. Carr (Change of Option)	1 p.m.
	Toby M. Greco (Purchase of Service)	2:30 p.m.
November 4, 2009	Ruth A. Landry (Effective Date of Retirement)	1 p.m.

Persons with a disability, wishing to attend the previously-listed hearings, and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Barb Fluire, Assistant to the Executive Director, at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general

rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 09-1709. Filed for public inspection September 11, 2009, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

Bureau of Professional and Occupational Affairs v. Dennis J. Perez; Doc. No. 1301-60-2009

On July 7, 2009, Dennis J. Perez, license no. MV209587, of Hazleton, Luzerne County, was suspended under the Order of the Court of Common Pleas of Dauphin County dated July 7, 2009, which the Court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649.

GARY M. BARBERA,
Chairperson

[Pa.B. Doc. No. 09-1710. Filed for public inspection September 11, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Notice Regarding Mortgage Accreditation Program

The American Association of Residential Mortgage Regulators (AARMR) and the Conference of State Bank Supervisors (CSBS) have adopted the following Mortgage Accreditation Program in conjunction with their launch of a program to accredit state government agencies that regulate the mortgage industry. AARMR and CSBS represent state mortgage regulators across the country. On behalf the States, as well as AARMR and CSBS, the Department of Banking is publishing the Mortgage Accreditation Program to provide state mortgage regulators and the public with full access to all of its details.

**AMERICAN ASSOCIATION OF
RESIDENTIAL MORTGAGE REGULATORS**

and

CONFERENCE OF STATE BANK SUPERVISORS

MORTGAGE ACCREDITATION PROGRAM

For information or a Word version of this document, contact Georgia G. High, Vice President, Accreditation and Certification, ghigh@csbs.org, (202) 329-7188.

STEVEN KAPLAN,
Secretary

THE AARMR/CSBS MORTGAGE ACCREDITATION PROGRAM

Introduction

The mission of the American Association of Residential Mortgage Regulators (AARMR) and Conference of State Bank Supervisors (CSBS) is to assure the ability of each state banking authority to provide safe, sound and well regulated financial institutions to meet the unique financial needs of local economies and citizens. In support of that mission, AARMR and CSBS sponsor a comprehensive Mortgage Accreditation Program to enhance the professionalism of State Banking Department's Mortgage Divisions and their personnel. The Mortgage Accreditation Program is also available to other State Agencies which regulate mortgage providers.

The Mortgage Accreditation Program involves a comprehensive review of the critical elements that assure a mortgage regulator's ability to discharge its responsibilities through an investigation of its administration and finances, personnel policies and practices, training programs, examination policies and practices, supervisory procedures, and statutory powers. In setting high standards, AARMR and CSBS are supporting public interest goals by identifying highly competent mortgage regulators and strengthening the capabilities of all agencies. The AARMR/CSBS Mortgage Accreditation Program is voluntary and not required for membership in CSBS or for participation in CSBS activities.

Goals of the Mortgage Accreditation Program

It is the goal of the AARMR/CSBS Mortgage Accreditation Program to encourage state mortgage regulatory agencies to enhance their capability to promote excellence in mortgage regulation with a minimum of regulatory burden and cost, and to assist them in achieving that capability.

Specific goals of the Program include:

1. To provide guidance and assistance to state mortgage regulators through self-evaluation and self-improvement.
2. To provide independent evidence of the capability of an accredited state mortgage regulator, in view of the interstate mortgage provider environment.
3. To assist each agency by providing documentation that may help it to obtain the resources necessary to assure the effectiveness of state mortgage regulation.
4. To strengthen the mortgage regulation system by demonstrating to Congress, the federal regulatory agencies, other state regulatory agencies and the public, the high level of capability of each accredited state mortgage regulator.

Accreditation Standards

To achieve accreditation, a state mortgage regulatory agency must test itself against the criteria in the Self-Evaluation Questionnaire and achieve a total score of not less than 75% and a score of not less than 70% on each section. In addition, the basic standards noted below must be met:

- A. The legal authority to license, examine, supervise and regulate all state-licensed mortgage providers consistent with basic principles of safety and soundness and protection of the public interest.
- B. The demonstrated capability to conduct examinations of state-licensed mortgage providers within acceptable time limits. This capability should be supported by a combination of active monitoring, acceptable complaint processing procedures, review of applicable federal reports and other methods in a manner consistent with state statutes, consumer protection and safety and soundness.
- C. Specialized capabilities as required in each state to assure safety and soundness of all state-licensed providers and full compliance with both state and federal statutes.
- D. Adequate qualified staff with expertise to license, examine, supervise and regulate all state-licensed mortgage providers and to perform other agency functions and responsibilities.
- E. A policy or statutory authority, which requires focused examinations on a frequency basis at least once every 60 months on all mortgage providers.
- F. Adequate statutory authority for the agency to carry out its duties and responsibilities independently, including authority to take formal enforcement action in addition to revocation of a license.
- G. Adequate funding to achieve all above-mentioned criteria.

Steps in the Accreditation Program

The following steps comprise the accreditation process:

1. The mortgage regulatory agency completes the Self-Evaluation Questionnaire.
2. The agency submits a request for accreditation review to the CSBS Performance Standards Committee (PSC). The request includes:
 - a) The agency's completed Self-Evaluation Questionnaire and related documents.
 - b) A contract, including attachments, stating legal considerations between CSBS and the agency.

3. The PSC Staff person assembles a Review Team to conduct an on-site evaluation. The Team evaluates and scores the same Self-Evaluation Questionnaire as the agency and determines, by whatever means it deems appropriate, whether the state's self-ratings are justified. The Review Team then issues a report and recommendations.
 - a) The methods used may include staff interviews, document verification and reviews of policies and procedures. Perhaps the most important task during the on-site evaluation is the examination of the agency's work product (e.g., examination reports, enforcement actions, and correspondence). At the conclusion of the on-site review, the Review Team will conduct an Exit Interview with the head of the agency and/or his or her designee to discuss the Team's findings and tentative conclusions and to afford the agency an opportunity to respond.
 - b) The agency may also present any additional information to the Audit Team or the Performance Standards Committee prior to the final decision on accreditation.
4. The PSC Staff person assembles an Audit Team. The Audit Team reviews and considers the findings and recommendation made by the Review Team, plus any additional information presented by the agency if applicable, assuring consistency between different Review Teams and generally assuring that each accreditation exercise meets the standards and requirements of the PSC.
5. The Review Team and Audit Team submit their findings in written reports to the PSC.
6. The PSC members analyze the Review Team report and the Audit Team findings plus any additional information presented by the agency, if applicable, to make a final decision on accreditation.
7. If the PSC members vote to accredit the agency, the PSC Chairman officially notifies the agency that it is accredited, contingent upon:
 - a) the successful completion of periodic reviews acceptable to the PSC, and
 - b) reaccreditation by the PSC not more than seven years from the initial accreditation. The steps to achieve reaccreditation are the same as those for an initial accreditation.
8. Decisions made by the Performance Standards Committee may be further appealed to the EFSBS Board of Trustees.

AARMR and CSBS handle each application and the entire accreditation process in strict confidence up to the announcement of an agency's accreditation, unless the state mortgage supervisor elects otherwise.

Self-Evaluation Questionnaire: Purposes, Benefits and Uses

The Self-Evaluation Questionnaire is a multi-purpose tool to help achieve the goals of the AARMR/CSBS Mortgage Accreditation Program as set forth above. It is used by:

1. State mortgage regulatory agencies for self-improvement through a detailed self assessment.
2. State mortgage regulatory agencies to document needs for additional resources from their respective states.
3. Newly appointed state mortgage supervisors to "inventory" agency capabilities and needs.
4. State mortgage regulatory agencies beginning the strategic planning process.
5. State mortgage regulatory agencies to determine if they are ready for accreditation review by the PSC.
6. State mortgage regulatory agencies to document and defend applications for AARMR/CSBS accreditation.
7. Accreditation Review and Audit Teams to evaluate the agency in a disciplined and organized manner.

The Role of Key Groups in the Mortgage Accreditation Program

In order to promote consistent and disciplined decisions, the Accreditation Program involves actions or decisions by several different groups. These groups include:

1. American Association of Residential Mortgage Regulators and The Conference of State Bank Supervisors
AARMR is the national organization representing state residential mortgage regulators. AARMR's mission is (a) promote the exchange of information between and among the executives and employees of the various states who are charged with the responsibility, pursuant to the laws of the individual states, for the administration and regulation of residential mortgage lending, servicing and brokering; (b) assist in resolving conflicts of jurisdiction in relation to mortgage lending, servicing, and brokering; (c) promote a better understanding of mortgage regulation; (d) develop model legislation applicable to the administration and regulation of mortgage lending, servicing and brokering; (e) increase the knowledge and ability of those engaged in the administration and enforcement of mortgage regulation and those engaged in mortgage lending, servicing or brokering by organizing and sponsoring lectures, seminars, and training programs and by providing a forum for the exchange of information; and (f) do everything necessary, proper, advisable or convenient for the accomplishment of the Corporation's purposes and goals.

The Conference of State Banks Supervisors (CSBS) is the professional organization of those public officials who charter, regulate and supervise the state-chartered commercial and savings banks of the nation. Many of those bank supervisors also regulate mortgage providers. Established in 1902 as a clearinghouse for the ideas of the state bank supervisors, CSBS has evolved into the most significant source of education and research services aimed at strengthening state regulators. The Conference provides the majority of the technical training needs of the state regulatory agencies. CSBS established the Performance Standards Committee to conduct its Accreditation Program

and supports the functions and decisions of the Committee.

2. The EFSBS Board of Trustees

EFSBS is a 501 (c) (3) affiliated with CSBS through common control. The EFSBS Board of Trustees oversees the Professional Development Programs including the Accreditation Program. Final decisions of the PSC may be appealed to the EFSBS Board of Trustees.

3. The Performance Standards Committee

The Performance Standards Committee (PSC) is a committee of the Education Foundation. Its membership has included current and former state and federal regulators, members of Congress, and bankers with extensive knowledge of bank regulation and, in a consulting role during the program's development, a representative of the Government Accounting Office. The PSC has an assigned staff person.

The PSC encourages and recognizes high levels of capability and performance by state banking regulators which include regulation of mortgage providers. The PSC offers the Self-Evaluation Questionnaire to help agencies examine and improve themselves even if they do not currently seek accreditation. The PSC reviews the Accreditation Program format, content and procedures and revises the Program as necessary. The PSC establishes the Review and Audit Teams to carry out the Accreditation Program and determines the duties and functions of these teams. The PSC staff person provides clerical support for the teams. The PSC votes on all the reports and findings of its Review and Audit Teams on the accreditation of a state mortgage regulatory agency.

Once the PSC makes a decision regarding accreditation of an agency, it will notify the agency in writing as promptly as possible. The forms of possible PSC action are:

Initial Accreditation:

1. Granting of initial accreditation.
2. Deferral on the decision to grant initial accreditation for a specified period of time.

⇒Show Cause

⇒Denial of Initial Accreditation.

3. Denial of initial accreditation.

Continued Accreditation (based on Annual Review):

1. Continue accreditation.
2. Probation for a specified period of time

⇒Show Cause

⇒Terminate accreditation.

3. Denial of continued accreditation.

Re-Accreditation:

1. Re-Accredit.
2. Probation for a specified period of time

⇒Show Cause

⇒Terminate Accreditation.

3. Denial of re-accreditation.

4. Mortgage Accreditation Subcommittee (MAS)

The MAS is hereby authorized and empowered to recommend standards and procedures pursuant to which AARMR, CSBS and EFSBS will accredit state mortgage regulators to regulate the mortgage industry and is hereby further authorized and empowered to oversee the conduct of such mortgage accreditation program and address any other related issues.

5. Accreditation Review Team

A Review Team consists of two or three people whose experience in mortgage regulation allows them to assess the capabilities of a state mortgage regulatory agency accurately. Review Teams will typically include active and former state mortgage regulators.

Each Review Team evaluates the capability of an agency to establish and maintain a competently-run regulatory program, to produce a high quality examination, and to enforce all relevant statutes. The Review Team examines the agency's enabling legislation and the legal framework in which the regulation takes place. The Team assesses the agency's success in obtaining an adequate budget and necessary personnel, in training, and in adequately managing its resources. The Team judges how well the agency meets the goals of highly professional, competent and consistent regulation. The Review Team places great weight on the current and probable future reliability of the agency's work product.

Prior to beginning an accreditation review, the Review Team members examine the written submissions of the agency. The Self-Evaluation forms the basis for the Team's initial questions. The process of verification of the material submitted by the state helps answer questions concerning the quality of a state's regulatory program.

Among the Review Team's most important tasks are to examine the agency's strategic plan, examination reports, monitoring systems, work-sheets, and enforcement actions. The Team makes random checks of examination reports and reviews other files and documents, including historical budget information, approved staff levels, personnel procedures, salaries, turnover rates, and training. Organizational charts, methods of regulation and supervision, including review of the agency's rules and statements of policy, targeting of mortgage providers, scheduling of examination and format of the report of examination are investigated. The Team also interviews agency personnel. The on-site review typically lasts three days.

After completing staff interviews and examination of the agency's work product, the Review Team rates the agency on each of the Self-Evaluation questions. The Team then conducts an exit interview with the state mortgage supervisor and/or his or her designee during which the Team summarizes its findings. Lastly, the Review Team writes a report recommending whether or not to accredit or reaccredit, including the strengths and weaknesses observed leading to that conclusion. This report includes recommendations and suggestions to help the agency make improvements.

The Review Team does not perform a full scale management audit of the agency, nor does the Team perform a detailed financial audit.

4. Audit Team

The Audit Team reviews the report and recommendations of the Review Team for consistency and professionalism in measuring the performance and capabilities of state mortgage regulatory agencies. The Audit Team reports its findings to the PSC.

The Audit Team typically consists of two to three members who are current or former regulators from state agencies.

INSTRUCTIONSSelf-Evaluation Questionnaire: Content and Procedures

Most questions in the Self-Evaluation Questionnaire begin by asking the agency to "describe" its approach to, experience in and/or handling of that aspect of the regulatory program. The agency then chooses a rating of 1 to 5, as follows:

<u>Rating</u>	<u>Narrative Description</u>
5	Excellent: Strength obvious and no significant weaknesses perceived.
4	Very Good: Strong, only minor improvements could be made.
3	Average: Satisfactory and acceptable but some improvements needed.
2	Substandard: Not reliably acceptable; improvements are clearly needed.
1	Poor: Not acceptable or function not performed.

After choosing a rating and calculating the score for the criterion, the agency states the basis for that rating, including documentation where appropriate. (Please note: when asked to provide documentation of a specific nature, the specific documentation requested should be considered a minimum. If manuals are requested, only the table of contents should be in the original submission. It may be necessary to provide additional documentation). This description may range from a few sentences to a page or more. Generally, low-valued criteria require less description.

The criteria have values ranging from 2 to 50, with 50 being most important. The agency multiplies the value by its own rating to calculate the score for that criterion; then, adds the scores for all the criteria in a section to compile the section score.

The Review Team also evaluates and scores the Self-Evaluation Questionnaire during its visitation.

**AMERICAN ASSOCIATION OF
RESIDENTIAL MORTGAGE REGULATORS
&
CONFERENCE OF STATE BANK SUPERVISORS**

STATE MORTGAGE AGENCY ACCREDITATION PROGRAM

**SELF-EVALUATION QUESTIONNAIRE
FOR THE
STATE MORTGAGE PROVIDER REGULATOR**

SECTION I - AGENCY ADMINISTRATION AND FINANCE

Purpose - This section evaluates the administration of the state mortgage regulatory agency and the financing of the agency's operations. Questions begin with the broad issues of agency mission and goals and then address specific areas, such as formal procedures in rule-making, consistent handling of applications, communication with other regulators and adequacy of support personnel. Questions on financing address the funding mechanism for the agency and the adequacy of the budget to enable the agency to: (1) meet its supervisory requirement to include licensing, examinations and investigations; (2) provide adequate computer equipment; (3) monitor the agency budget and (4) influence its budget allocation.

Narrative Material for the Section - The AARMR/CSBS Accreditation Program does not require or endorse a standard management style. Instead, the narrative sections allow the agency to explain the agency's organization and to demonstrate the effectiveness of the agency's management. Similarly, the Accreditation Program does not endorse a particular funding mechanism. States that finance their operations entirely from assessments on the mortgage industry insulate themselves from the uncertainties of the legislative process. However, other funding mechanisms can be defended as adequate for a particular state.

-
- A. Describe the agency's mission statement and strategic plan with most recent date of review.
Who is involved in the plan development and how are the finalized items communicated to the agency's employees?
Who within the agency is assigned responsibility for completion of strategic actions and what is the time frame for completion?
Provide documentation for actions met and state reasons for not meeting goals.
State the basis for the rating and include documentation if appropriate.
- | | |
|---------------|-------------------------------|
| | <u>Value x Rating = Score</u> |
| Agency Rating | 5 x |
-

Suggested Best Practice: The agency must have a mission statement and a strategic plan with measurable goals, assigned accountability and proposed timeframes for attaining goals. The strategic plan must be reviewed and adjusted at least annually. The agency must meet or be in progress of meeting the desired goals as stated in the plan. Business Continuity should be addressed in the plan.

- B. Describe the agency's organizational chart (include any agency boards if applicable.)
How does it demonstrate accountability for significant functions such as examination, finance, personnel, training and legislation?
Are the lines of supervision clearly defined and compatible with job descriptions? Note:
Job descriptions are discussed in the Personnel Section of the Self-Evaluation Questionnaire.
State the basis for the rating and provide documentation that includes the organizational chart and a brief description of the operational units.
- | | |
|---------------|-------------------------------|
| | <u>Value x Rating = Score</u> |
| Agency Rating | 2 x |
-

Suggested Best Practice: The agency must have an up-to-date organizational chart indicating direct lines of responsibility that correspond to supervisory roles and job descriptions.

- C. Describe the agency's policy for internal communication including holding periodic staff meetings (either statewide, by region, or through systematic visitation) to keep professional staff informed of administrative matters, to provide legislative and regulatory updates, as well as to provide a forum for the exchange of ideas. State the basis for the rating and provide documentation that includes a schedule of meetings and newsletters if available.
- | | |
|---------------|-------------------------------|
| | <u>Value x Rating = Score</u> |
| Agency Rating | 6 x |
-

Suggested Best Practice: The agency must facilitate a training and information conference with all examiners and investigators in attendance (in person or visually) at least annually. Input from field examiners must be sought as to topics and items to be covered. If state is large enough for districts, district meetings should be held at least quarterly with monthly senior staff meetings. If a smaller agency, meetings with all examiners should be held at least quarterly.

- D. Describe the process and evaluate the effectiveness of the agency's communication with other applicable mortgage regulatory agencies.
How does the communication affect the scheduling of examinations, participation in examinations, sharing of information, exit interviews and enforcement actions?
State the basis for the rating and provide documentation that includes copies of all formal agreements. Note: This question only addresses communication with other state mortgage regulatory agencies, not interstate policies and procedures.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{6 \quad x}$$

Agency Rating

Suggested Best Practice: The agency must coordinate with other states at least annually and provide periodic updates on the condition of state-licensed mortgage providers involved in interstate mortgage provider regulation.

- E. Describe and evaluate the nature, purpose and effectiveness of the agency's communication with the mortgage trade associations. State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{2 \quad x}$$

Agency Rating

Suggested Best Practice: Agency senior personnel should attend meetings of all relevant associations in their state. Proposed legislation should be discussed with trade associations in the state to clarify issues.

- F. Does the agency provide or participate in consumer education or financial literacy training to consumers? Please provide documentation concerning the various programs and activities in which agency personnel participate.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{2}$$

Agency rating

Suggested Best Practice: The agency must provide (or participate in) consumer education or financial literacy training to consumers. Documentation of active participation must be maintained.

- G. Briefly describe and evaluate the agency's formal procedures for promulgating rules and regulations including emergency procedures. State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{3 \quad x}$$

Agency Rating

Suggested Best Practice: Procedures for promulgation of agency rules and regulations must follow the administrative procedures act as prescribed by state law unless the agency is specifically exempt from such an act. "Emergency procedures" must be provided.

- H. Describe the agency's direct and/or indirect access to legal assistance in mortgage regulation, advice and support providing the names of any attorneys employed by the agency who handle mortgage regulation. State the basis for the rating. Also, provide documentation that includes pending lawsuits, if any, against the agency.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{7 \quad x}$$

Agency Rating

Suggested Best Practice: The agency must have an attorney on staff and/or a specifically assigned attorney from the Attorney General's Office to represent the agency if required by state law. The agency must also have the ability to hire outside counsel when necessary.

- I. Describe and evaluate the adequacy of the agency's physical facilities and emergency preparedness procedures (including the security and fire protection of the office and confidential files). State the basis for the rating.

$$\frac{\text{Value} \times \text{Rating} = \text{Score}}{5 \quad x}$$

Agency Rating

Suggested Best Practice: All agency offices must have either keyed or coded entry and meet the following qualifications:

1. Confidential files must be in locked area with limited access.
2. There must be a procedure for maintaining control of confidential files and security when not in locked area.
3. Space must be adequate to accommodate all examiners as needed with private offices for supervisors.
4. All facilities must have adequate fire safety and evacuation procedures.

- J. Describe the use and evaluate the adequacy of the agency's computer system, including central office computers (i.e., LAN system, E-mail, etc.), number of computers for field examination staff, anticipated replacement and/or upgrade of computers, backup and disaster recovery plans (including those for field computers). State the basis for the rating and the date of the last testing of the disaster recovery plan _____.

$$\frac{\text{Value} \times \text{Rating}}{7} = \text{Score}$$

Agency Rating

Suggested Best Practice: The agency's computer system must be adequate to provide the necessary tools for regulation of mortgage providers and must be compatible with the programs necessary to perform examinations. At a minimum:

1. Computers should be replaced at least every three years.
2. Each examiner must have their own computer and own email address with access to the internet.
3. Computer systems must have adequate firewalls, virus protection, and intrusion detection including encryption of reports of examination.
4. Agency must have adequate off-site backup and disaster recovery plan.

- K. Describe the agency's revenue source(s). Note the amount of total funds obtained from:

- assessments on the assets of the providers supervised, \$
- fees charged per residential mortgage documentation filed \$
- fees for examinations, \$
- state general revenue funds*, and \$
- application/licensing fees \$
- other sources (_____) \$
- Total \$

* This question involves income generated by the agency when no other income is generated and agency expenditures are covered by state general revenue other than from the mortgage providers.

How often are assessments billed? () Annually () Semiannually () Quarterly

Is the organizational unit responsible for mortgage regulation self-supporting?

Considering possible future changes in the mortgage industry, describe the agency's contingency plans. State the basis for the rating and provide documentation if applicable.

$$\frac{\text{Value} \times \text{Rating}}{12} = \text{Score}$$

Agency Rating

Suggested Best Practice: Agency must be self-supporting. Income generated from the mortgage providers should support costs attributed to the supervision of the mortgage providers. Agency must have a contingency plan (separate fund, cash balance or proven ability to increase revenue) to cover at least 3 months worth of expenses.

- L. Describe the process of preparing the (mortgage regulatory) agency budget, including the procedure for reviewing monthly or periodic budget reports and making appropriate changes.

To what extent do supervisors and/or managers with income and/or expense responsibilities contribute to the preparation process?

Evaluate the adequacy of the existing budget to 1) examine and supervise all state-licensed mortgage providers in accordance with frequency guidelines, and 2) operate the mortgage regulatory agency.

Note: The adequacy of salaries and benefits and adequacy of training funds is covered elsewhere in the questionnaire. State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating}}{12} = \text{Score}$$

Agency Rating

Suggested Best Practice: Input into budget process should include all individuals who will be responsible for monetary controls of portions of the budget. Budget versus actual expenses should be reviewed monthly and reported to senior management. The agency must have sufficient funds to operate and to examine mortgage providers in poor economic times as

well as during times of good economy including the ability to hire additional examiners if necessary.

SECTION I SCORE SHEET

Max Base Score 345

Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

Note: also enter data on the Final Score Sheet.

SECTION II – PERSONNEL

Purpose - This section evaluates various aspects of the "people" side of the agency. The criteria assume that a superior agency provides a clear, adequate and consistent set of rules for the treatment of employees. Some of the criteria address the documents related to personnel policy, e.g., policy manuals and job descriptions. Other criteria treat communication with and retention of professional staff.

- A. Describe the agency's Personnel Manual. Evaluate the completeness and maintenance procedures of the manual. State the basis for the rating and include a copy of the table of contents **ONLY** of any manuals. (Please note that the manual should be available for review on-site). If manuals are available on-line, please provide the site location _____

Agency Rating _____

$$\frac{\text{Value} \times \text{Rating}}{3} = \text{Score}$$

Suggested Best Practice: The agency must have an approved Personnel Manual. The Manual must be reviewed at least annually and must include agency specific procedures regarding hours, travel, per diem, etc. The Manual must be available to all employees either in hard copy or electronically, with a procedure for immediate updates as approved, and must be reviewed with employees periodically as needed.

- B. Evaluate the agency's written job descriptions and their frequency of revision.
- State the basis for the rating and have documentation available on-site, including copies of the job descriptions for those positions directly involved in the examination, regulation and supervision of mortgage providers available on-site.
 - Indicate which positions, if any, are union and/or civil service positions.
 - Detail which positions are appointments, who appoints, and if confirmation is required.

Agency Rating _____

$$\frac{\text{Value} \times \text{Rating}}{5} = \text{Score}$$

Suggested Best Practice: All positions must have job descriptions which describe duties performed, are up-to-date, and are reviewed at least annually. The job descriptions should include positions that the individual supervises, state the name or position of that individual's supervisor is and should correspond to the organizational chart.

- C. Describe the personnel hiring policies and recruiting procedures to allow employment of the type and number of personnel needed for mortgage provider examination, regulation and supervision. Detail any groups which are given preferential treatment, such as veterans. State the basis for the rating and include documentation if appropriate.

Agency Rating _____

$$\frac{\text{Value} \times \text{Rating}}{5} = \text{Score}$$

Suggested Best Practice: Although most States have an agency which provides hiring and recruiting duties for the entire State Government, supervisors from the agency must be included in the selection process in some way. The immediate supervisor should participate in the hiring interview for individuals whom they will directly supervise and have acceptable training in conducting hiring interviews.

- D. Describe the various examiner level positions in the organizational structure and evaluate the agency's adequacy to provide promotional opportunities and pay for performance that will enable the agency to retain and advance qualified

personnel to increasingly responsible positions and duties. State the basis for the rating and include documentation if appropriate.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{6} = \text{Score}$$

Suggested Best Practice: In order to provide an examiner career path with adequate advancement opportunity, the agency must have at least 3 levels of field examination staff with three of those levels not limited in the number of positions. Funds must be sufficient to pay merit increases for above average performance of examiners.

E. Describe the performance appraisal and review process used by the agency, including the process for new-hires, trainees in new areas, and experienced staff. State the basis for the rating and provide documentation that includes sample forms/checklists used in the evaluation process.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{5} = \text{Score}$$

Suggested Best Practice: Performance appraisals should not only include an evaluation of the employee's performance over a definitive timeframe but should provide a plan for the next timeframe with specific measurable goals agreed to by the employee and supervisor. All employees should have at least one annual review with more frequent evaluations for new hires and persons recently promoted to a new position. All reviews should be conducted in person and signed by the employee and supervisor.

F. Describe and evaluate the adequacy of the agency's salaries and benefits, particularly as it affects the agency's ability to hire and retain well-qualified employees for a reasonable time.
 a. State the basis for the rating and provide documentation that includes the salary ranges and comparisons with contiguous states' examiners and comparable federal examiners who provide regulation and supervision of mortgage providers.
 b. State the turnover ratios for mortgage examiners for the previous three years. Provide the reasons for leaving based on exit interviews.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{10} = \text{Score}$$

Suggested Best Practice: The agency's Employee Compensation Plan must be adequate to hire and retain well-qualified employees. The Plan at a minimum must address salary, benefits, and expense reimbursements. The plan should contain provisions which require that periodic compensation studies be conducted to assure that employee compensation remains competitive. Such periodic studies must document the competitions compensation structure. Data to be considered should be sought from similar agencies in contiguous states and federal agencies operating in its employee market. The agency should also identify at least one likely private sector competitor for well-qualified employees.

SECTION II SCORE SHEET

Max Base Score 170

Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

Note: also enter data on the Final Score Sheet.

SECTION III - TRAINING

Purpose - This section evaluates the steps an agency takes to improve professional skills over time. No one method of training is required. Instead, this section examines the implementation by an agency of the method chosen to train its staff. On-the-job training, formal classroom instruction and seminars can alone or jointly compose an adequate training program. Whatever the mix, the program should maintain a highly qualified staff and be carried out on a regular basis.

Narrative Material for the Section - The narratives for this section provide opportunities to describe special efforts in training and education, especially where local conditions require specialized qualifications (e.g., agricultural lending, international).

Quantitative measures of formal education completed may be included, even though the number of classroom hours or courses completed may not, by itself, identify an adequate training program.

- A. Describe how an agency assigns overall formal training responsibility (whether it is assigned to a selected individual or individuals) and evaluate the effectiveness of that assignment. State the basis for the rating and include documentation if appropriate. Note: On-the-job training is addressed in another section.
- Value x Rating = Score
6
- Agency Rating

Suggested Best Practice: The responsibility for oversight of formal training should be assigned to one individual who maintains a database of training per examiner. The effectiveness of formal training should be evaluated within a set timeframe following attendance at the class or seminar.

- B. Describe the agency's written policy on examiner training. How is the policy's effectiveness evaluated? State the basis for the rating and include a copy of the written training policy and a list of the core and advanced schools used (i.e., CSBS, AARMR, state, federal or other schools and seminars).
- Value x Rating = Score
6
- Agency Rating

Suggested Best Practice: The agency must have a written training policy as follows:

1. The policy must include a listing of core classes for each level and type of examiner.
2. The policy must include support for an examiner to achieve and maintain a definite career path.
3. The policy must be reviewed annually.
4. The policy must allow examiners the ability to request training for continuing education that will be subject to a supervisor's approval and budgetary constraints.
5. The training goal must be for each examiner to have, at a minimum, "outside classes" with at least 28 hours of instruction annually. The goal must be met.

- C. Describe the agency's training procedures in terms of completeness, relevance and maintenance. How do the procedures address issues specific to your state?
- Value x Rating = Score
5
- Agency Rating

Suggested Best Practice: The agency must have written training procedures. The Examination and Training procedures may be interchangeable.

- D. Describe the agency's use of on-the-job training. Include a description of who is responsible for providing the training (i.e., mentor) and evaluation procedures. State the basis for the rating and provide documentation that includes the forms or checklists used in evaluating the completeness and effectiveness of the training.
- Value x Rating = Score
8
- Agency Rating

Suggested Best Practice: The agency must have approved OJT procedures (if not included in training procedures).

1. The procedures should include a listing of duties to be performed by the trainee and a listing of reading material for reference by topic.
2. The OJT procedures must address the following areas: compliance with state and applicable federal laws, financial analysis and examiner-in-charge duties.
3. OJT procedures should include the use of an assigned mentor for examiners as they are assigned to new areas of training.
4. Evaluation of trainee should be performed at the conclusion of each job.

- E. Describe and evaluate the methods used by the agency to conduct pre and post examination interviews. State the basis for the rating.
- Value x Rating = Score
6
- Agency Rating

Suggested Best Practice: The agency must provide training for conducting interviews with licensees. This may take the form of outside schools or internal training.

-
- F. Describe the agency's policy (i.e., tuition reimbursement and/or leave policies) for external academic training programs. State the basis for the rating and include documentation if appropriate. $\frac{\text{Value} \times \text{Rating}}{4} = \text{Score}$
Agency Rating
-

Suggested Best Practice: The agency must have a policy on advanced/academic training which reimburses tuition and allows flexibility of time to attend classes. This includes full-time college classes.

-
- G. Describe, in detail, the agency's training budget and expenditures. What percentage of the total budget is allocated to or expensed for training? Is the training budget adequate to satisfy the training needs of the agency? State the basis for the rating and provide documentation that includes summary training budget information (three-year history and one year projection of budget and actual expenditures). $\frac{\text{Value} \times \text{Rating}}{10} = \text{Score}$
Agency Rating
-

Suggested Best Practice: The training expenditures must be at least 2% of total mortgage agency expenditures. The dollar amounts for training should only include expenses for materials, registration, and travel. This percentage should be adjusted if the core training is high due to a large number of newly hired employees.

SECTION III SCORE SHEET

Max Base Score 225 Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

Note: also enter data on the Final Score Sheet.

SECTION IV - EXAMINATION

Purpose - This section and the following section ("Supervision") cover those areas that the public most widely perceives as the main and most important activities of a state mortgage provider. These sections raise numerous questions regarding work product and the agency's ability to carry on a consistently competent program of regulation, examination and supervision.

Narrative Material for the Section - These narratives lend themselves to both qualitative and quantitative measurements of agency's ability to examine state-licensed mortgage providers completely and adequately. Please specifically address these criteria, giving a justification for the rating chosen and, where the rating indicates a problem, any actions being taken to improve the situation.

SECTION IV-a – EXAMINATION POLICIES AND PROCEDURES

-
- A. Describe the statutory requirement, agency policy and actual frequency of examinations of state-licensed mortgage providers. Evaluate the agency's ability to meet examination policies. State the basis for the rating assigned and provide documentation that includes the number of examinations by type of mortgage licensee. $\frac{\text{Value} \times \text{Rating}}{5} = \text{Score}$
Agency Rating
-

Suggested Best Practice: The agency written policy on examination frequency should state that each financial institution must be examined at least every 60 months or on a more frequent risk basis dependent on off-site monitoring (complaints, prior enforcement actions, ratings, etc.) The frequency policy must be met. The agency must conduct some form of exit meeting per

the written policy. Also, the policy should require either an onsite visitation or other form of review/audit within the first six months of being granted a license.

-
- B. Has the agency entered into any information sharing agreements with other regulatory agencies? If agreements have been signed, evaluate the agency's compliance with the agreements and the effectiveness of the procedures. Provide a listing of any examinations performed jointly.
- Value x Rating = Score
- Agency Rating 5
-

Suggested Best Practice: The agency must have information sharing agreements with other regulators and comply with said agreements.

- C. Has the agency signed the following mortgage agreements?
- a. CSBS Multi-State Supervision Agreement () Yes () No () N/A
- b. CSBS Protocol Agreement () Yes () No () N/A
- c. List any other State agreements
(regional or individual states)
- Is the agency in compliance with all signed agreements? () Yes () No () N/A
- Please provide procedures for assuring compliance with the protocols.
- Does the agency have the authority to travel out-of-state if necessary to examine an out-of-state licensee for which it has regulatory responsibility? () Yes () No
- Does the agency have the authority to contract with other state mortgage regulators to assist on examinations? () Yes () No
- State the basis for the rating and include documentation if appropriate.
- Value x Rating = Score
- Agency Rating 10
-

Suggested Best Practice: The agency must have signed all applicable agreements and developed means for assurance of compliance with the protocols. Additionally, the agency must have the ability to travel out-of-state and/or contract with other agencies.

- D. Describe and evaluate the agency's examination manuals including policies and procedures for organizing and planning individual examinations, as well as a policy on conducting exit meetings and requirements for meetings with the senior management team following an examination. State the basis for the rating and include documentation if appropriate.
- Value x Rating = Score
- Agency Rating 10
-

Suggested Best Practice: The agency must have examination manuals addressing policies and procedures for all types of examinations. These manuals may incorporate or be a duplicate of written training procedures. Internal procedures must provide at least two weeks notice to the assigned examiner for scheduling purposes in order to provide lead time to do pre-planning and risk focused memos.

- E. Describe and evaluate the agency's procedures for reviewing the examination report before it is returned to the mortgage provider, including the preparation of the transmittal letter. State the basis for the rating and provide documentation that includes a two-year history of average examination report turnaround time in calendar days. (Note: examination report turnaround time should be calculated from the time the examiners hold the exit meeting).
- Value x Rating = Score
- Agency Rating 10
-

Suggested Best Practice: Report turnaround time on examinations of non-problem providers should average no more than 30 calendar days from the time that the EIC holds the exit meeting with management until the report is mailed to the financial institution. On problem providers the average report turnaround time should be no more than 60 calendar days. Procedures for drafting of transmittal letters/agreements on problem providers should be more stringent than those for non-problem institutions. For better efficiency, the field staff should be adequately experienced and trained to draft transmittal letters for non-problem institutions.

-
- F. Describe the policy and procedures for preparation and review of working papers, including the sharing of working papers with regulatory counterparts and other entities as necessary.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{10} = \text{Score}$$

Suggested Best Practice: An acceptable procedure for independent review of working papers should be adopted and adhered to following each examination and visitation including but not limited to: overview of files reviewed, documentation supporting violations, sample disclosure documents, written policies and procedures review.

IV-b ABILITY TO RATE MORTGAGE PROVIDERS, RECOGNIZE PROBLEMS,
AND INITIATE EFFECTIVE CORRECTIVE PROCEDURES

- A. Rate the agency's examination program based on its review of the following areas in an examination:
- | | <u>Value x Rating = Score</u> |
|-----------------------------|-------------------------------|
| 1. Personnel Administration | 10 |
| 2. Management | 10 |
| 3. Financial Analysis | 10 |
| 4. Consumer Services | 10 |
| 5. Compliance | 10 |
-

Suggested Best Practice: Agency establishes procedures to assure an examination will review the following areas:

1. Personnel Administration: Hiring and firing, training, written policies and procedures; evaluation and compensation structure.
 2. Management: Knowledge of laws, number of violations, exceptions to internal routine and controls, quality control, third party due diligence; business plan.
 3. Financial Analysis: Capital or bond coverage; asset quality; earnings; liquidity; internal audit/independent audit; affiliated business arrangements
 4. Consumer Services: complaint procedures, marketing
 5. Compliance: Compliance Officer, compliance with laws, disclosures and documentation and use of MEGS for non traditional mortgages.
-

- B. Describe and evaluate the agency's ability to examine the areas listed above. State the basis for the rating and provide documentation that includes the number of examiners who have reached a high degree of technical competency. Provide a total of the number of examinations performed in a 12 month period. Provide a rationale for whether the number of employees is sufficient to examine the areas in accordance with the frequency requirements set by the agency. If not sufficient what is the action plan to train or acquire a sufficient number of examiners with a high degree of technical competency.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{50} = \text{Score}$$

Suggested Best Practice: Agency must have a sufficient number of examiners trained in the following areas to examine licensees at least every 60 months or on a more frequent risk basis dependent on off-site monitoring:

1. Personnel Administration: Hiring and firing, training, written policies and procedures; evaluation and compensation structure.
 2. Management: Knowledge of laws, number of violations, exceptions to internal routine and controls, quality control, third party due diligence; business plan.
 3. Financial Analysis: Capital or bond coverage; asset quality; earnings; liquidity; internal audit/independent audit; affiliated business arrangements
 4. Consumer Services: complaint procedures, marketing
 5. Compliance: Compliance Officer, compliance with laws, disclosures and documentation and use of MEGS for non traditional mortgages.
-

- C. Describe the agency's procedures for following up of problems discovered during any examination and for insuring that the licensees undertake the corrective action required.

Include the maximum number of days given for responding to the transmittal letter. State the basis for the rating and include documentation if appropriate.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{30} = \text{Score}$$

Suggested Best Practice: Licensees should respond within 45 calendar days after receipt of the report of examination and/or a transmittal letter. Individuals should be assigned to track and review responses. Notation of reviews should be made and retained in files. The EIC should be involved in responses to problem institutions.

SECTION IV SCORE SHEET

IV.a EXAMINATION POLICIES AND PROCEDURES

Max Base Score 250 Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

IV.b ABILITY TO RATE CAMELS, RECOGNIZE PROBLEMS, AND INITIATE CORRECTIVE PROCEDURES

Max Base Score* 650 Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

* If Criterion IV.b.A.4. is not applicable, the Revised Max Base Score for Section IV should be reduced by 50.

Note: also enter data on the Final Score Sheet.

SECTION V – SUPERVISION

Purpose - This section evaluates the agency's application and renewal procedures, complaint resolution program and enforcement authority. The section assumes that the system devised will provide timely, accurate and usable data. The section also assumes that authority to carry out enforcement actions is necessary, if such actions are to be effective.

Narrative Material for the Section - The narrative provides the opportunity to describe the monitoring and complaint resolution program the agency has developed and how that system is used. List any "outside" sources of information that may be used to increase the reliability of programs, e.g., NMLS, independent audits, quarterly reporting. Describe how the monitoring and compliance programs affect examination schedules and other regulatory activities, e.g., enforcement actions and meetings with licensees and controlling individuals.

A. Describe the agency's ability to recognize and respond to complaints filed against licensees.

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{30} = \text{Score}$$

Suggested Best Practice: The agency must have a written complaint resolution program to monitor all licensees. The program must track acknowledgement of complaints, correspondence with licensee and date of complaint resolution or final disposition. Reasonable timeframes should be set for final disposition of complaints.

B. Describe the agency's application process and procedures. How often is the license renewed? Does the agency have a means of determining license status or disciplinary actions in other agencies (whether in state or in other states)?

Agency Rating

$$\frac{\text{Value} \times \text{Rating}}{30} = \text{Score}$$

Suggested Best Practice: The agency must have on-line applications with the ability to file electronically. The agency must

have written procedures for processing applications, including normal timeframes for completion of processing of completed applications. The applications, at a minimum, should address the following:

- a. Criminal records history on controlling individuals,
- b. State specific requirements,
- c. Regulatory action disclosure.

-
- C. Describe the agency's follow-up procedures for problems noted as a result of off-site monitoring program findings, including the communication of the findings to the appropriate individuals. State the basis for the rating and include documentation if appropriate and not confidential.
- Value x Rating = Score
5
- Agency Rating
-

Suggested Best Practice: Computer generated reports and documentation of financial statements or questionnaires. When problems are noted, procedures should be established for assigned responsibility of written and/or oral communication with the licensee, other regulators, and office/field personnel with appropriate documentation in the individual file. This information should be available for review by the appropriate office and field personnel including the assigned Examiner-in-Charge.

- D. Provide copies of law for the agency's authority to take disciplinary or enforcement actions against licensees. Does the agency have adequate statutory enforcement authority? State the basis for the rating.

Value x Rating = Score
30

Agency Rating

Suggested Best Practice: The agency must have at a minimum the following statutory enforcement powers over licensees:

1. The ability to issue Cease and Desist Orders including emergency C&D's.
 2. The ability to suspend or revoke licenses, and
 3. The ability to issue fines sufficient to deter violations of laws and regulations and/or violations of orders or agreements.
-

- E. Describe the agency's actual use of its enforcement authority and evaluate the effectiveness of disciplinary and enforcement actions. Provide the number and type of actions issued during the past three years. State the basis for the rating and include documentation if appropriate.
- Value x Rating = Score
10
- Agency Rating
-

Suggested Best Practices: The agency should have a written policy or written procedures that require some type of action for problem licensee. If a problem licensee does not have a written action in compliance with the policy, the file should contain written reasons for exception approved by senior management.

SECTION V SCORE SHEET

Max Base Score 525 Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

Note: also enter data on the Final Score Sheet.

SECTION VI – LEGISLATIVE

Purpose - This section covers a series of legislative issues important to maintaining a regulatory program that meets current and future regulatory needs. This section assumes that a well-run agency will operate under a code that is comprehensive and clear, changes as often as necessary and places accountability with the supervisor. This section also addresses the agency's ability to propose legislation, as well as to review legislation drafted by others that would affect the agency's regulatory program.

Narrative Material for the Section - The narratives should describe the scope of the authority of the state regulator and the agency. They should also indicate the capacity of agency personnel to participate in the legislative process.

- A. When was the last recodification of the state mortgage statute and the last date the code was reviewed in its entirety?

How often are revisions/amendments made?

Are there existing plans to recodify the state mortgage laws, and if so, when?

State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating}}{3} = \text{Score}$$

Agency Rating

Suggested Best Practice: The mortgage statutes must be reviewed in its entirety at least once every five years to determine if recodification is needed. Once the determination is made that recodification or revision is necessary, the code should be revised within three years.

- B. Discuss whether the state mortgage statutes provide the supervisor with adequate authority to perform the prescribed duties and responsibilities. Identify areas needing improvement. State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating}}{10} = \text{Score}$$

Agency Rating

Suggested Best Practice: Agency management should indicate that the mortgage statutes provide the agency or the Supervisor with the necessary powers to perform prescribed duties and responsibilities. Any areas needing improvement should be identified with any current actions in progress being noted.

- C. Describe the agency's involvement in the legislative process, including the ability to initiate legislation, review legislation, and otherwise have an impact on legislation affecting the licensees under its purview. State the basis for the rating and include documentation if appropriate.

$$\frac{\text{Value} \times \text{Rating}}{6} = \text{Score}$$

Agency Rating

Suggested Best Practice: The agency should have input into any proposed legislation regarding areas under their purview with adequate opportunity to defend the proposals before the legislature.

SECTION VI SCORE SHEET

Max Base Score 95

Agency Score _____

Agency Score as a percent of Maximum Base Score _____%

Note: also enter data on the Final Score Sheet.

FINAL SCORE SHEET

for the
State of _____

	<u>MAX</u>	<u>AGENCY SCORE</u>	<u>SCORE % of MAX</u>
SECTION I- ADMINISTRATION & FINANCE	345		
SECTION II- PERSONNEL	170		
SECTION III-TRAINING	225		
SECTION IV- EXAMINATION			
IVa	250		
IVb	650		
SECTION V- SUPERVISION	525		

SECTION VI- LEGISLATIVE 95

Max Total Score..... 2,260

State Mortgage Agency Total Score

Percentage Score

Agency Supervisor

Date

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